

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CIVIL ACTION  
: 19-CV-1435  
Plaintiff :  
:   
vs. : Easton, Pennsylvania  
: April 12, 2022  
:   
MILLER'S ORGANIC FARM :  
and AMOS MILLER, et al. :  
:   
Defendants : MOTIONS HEARING  
- - - - -

BEFORE THE HONORABLE EDWARD G. SMITH  
UNITED STATES DISTRICT COURT JUDGE  
THE HOLMES BUILDING

APPEARANCES:

For the Government: GERALD B. SULLIVAN ESQUIRE  
UNITED STATES ATTORNEY'S OFFICE  
615 Chestnut Street, Suite 1250  
Philadelphia, Pennsylvania 19106

For the Defendant: STEVEN LAFUENTE, ESQUIRE  
THE LAFUENTE FIRM, PLLC  
Thanksgiving Tower  
1601 Elm Street, Floor 33  
Dallas, Texas 75201  
(Via Telephone)

Also Present: Paul Flanagan  
U.S. Department of Agriculture

George Lapsley,  
Court-Appointed Master

Scott Safian, FSIS

Deputy Clerk/  
ESR Operator: Jennifer Fitzko

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1 (At 1:22 p.m. in Easton Courtroom.)

2 DEPUTY CLERK: All rise.

3 THE COURT: You may be seated.

4 UNIDENTIFIED SPEAKER: Thank you.

5 THE COURT: The Court is called to order in the matter  
6 of United States of America versus Miller's Organic Farm and  
7 Amos Miller, this is Civil Action No. 19-1435. Present in the  
8 courtroom is the defendant, Mr. Miller.

9 And Mr. Miller, you don't have anyone here on behalf  
10 of Miller's Organic Farm, is that correct, sir?

11 THE DEFENDANT: (No audible verbal response.)

12 THE COURT: Okay.

13 But you are Miller's Organic Farm, so --

14 On behalf of the United States appears, Assistant  
15 United states Attorney Gerald Sullivan, good afternoon, sir.

16 MR. SULLIVAN: Good afternoon, your Honor.

17 THE COURT: And from the U.S. Department of  
18 Agriculture, Mr. Paul Flanagan, good afternoon.

19 And our court-appointed Master, George Lapsley,  
20 good afternoon, sir.

21 MR. LAPSLEY: Good afternoon, your Honor.

22 THE COURT: The Court convenes today in and -- I'm  
23 sorry, Mr. Lafuente, we have you available by phone, still with  
24 your --

25 MR. LAFUENTE: Yes.

1           THE COURT:   -- still with your -- withdrawal pending,  
2   good afternoon, sir.

3           MR. LAFUENTE:   That is correct, good afternoon.

4           THE COURT:   The purpose of this hearing, of course,  
5   was to determine the status of compliance with respect to the  
6   existing court orders here.  And this was -- it was also to,  
7   essentially, get a report from Mr. Lapsley as to how things  
8   have gone since his appointment in this case, as the court-  
9   appointed expert.

10          Assistant United States Attorney Sullivan, from the  
11   standpoint of the Government, how have things gone in this case?

12          MR. SULLIVAN:   Your Honor, I think, we've -- we've  
13   come today, your Honor, had stated on March 9<sup>th</sup> in our telephonic  
14   hearing, that this could be a status conference today, it could  
15   be contempt hearing, it could be any number of things.

16          I think, we've come in today -- we smile -- because  
17   receiving some information from the USDA/FSIS through Mr.  
18   Flanagan and his colleagues, not really having heard anything  
19   from Lapsley, other than when he wrote to the Court two days  
20   after the last telephonic conference at which Mr. Miller had  
21   said, he would cooperate with Mr. Lapsley, when Mr. Lapsley  
22   wrote to the Court and asked the Court to -- or asked my office  
23   -- to then propose an order that would allow him to gain access  
24   with the Marshal's assistance, since he had been denied access  
25   on March 11<sup>th</sup>, two days after our last hearing.  Apart from that,

1 we really haven't had any information from Mr. Lapsley, other  
2 than second-hand through Mr. Flanagan.

3 So, as we foresee, you know, what would happen today,  
4 it's -- it's mostly, us wanting to hear from Mr. Lapsley, us  
5 wanting to put on testimony from Mr. Flanagan.

6 And if Mr. Miller is actually receiving Fifth  
7 Amendment rights advisement, wishes to testify and state  
8 anything, to listen to that. But certainly, in advance of that,  
9 before we get to that point, I could summarize where I think we  
10 are in terms of where we were at the last hearing, what my  
11 knowledge is of generally, of what hasn't been done.

12 My distillation of Mr. Miller's recent submission to  
13 the Court, if you'd want to hear that from me before the  
14 testimony or after it, either way, I can present that.

15 THE COURT: Well, I think, before, I -- and I  
16 certainly want to hear from Mr. Miller about the documents that  
17 he has submitted and what his perspective is on it as far as  
18 compliance with what the orders are.

19 But why don't you state from the Government's  
20 standpoint, how you believe things have done and what the status  
21 is.

22 MR. SULLIVAN: Your Honor, so when we appeared  
23 telephonically on March 9<sup>th</sup>, one thing that really stuck out in  
24 my mind and reminded me of the valuable role that I believe Mr.  
25 Lafuente continues to play in this case, even though my

1 understanding is, that his communications with Mr. Miller are  
2 limited, because Mr. Lafluyente said -- and I have the transcript  
3 ordered, so I -- I reviewed the transcription yesterday, he  
4 said, in part regarding the activity that was the subject of the  
5 second contempt sanctions order on February 7<sup>th</sup>, which involved  
6 Mr. Miller's conduct with poultry slaughter and processing on  
7 his adjacent farm at 672 Mill Creek School Road, Mr. Lafuente  
8 said:

9           These are crimes and I will not be a party to it. I  
10          have in no way counseled my client to continue to thwart  
11          Court's orders in the way that he has done.

12           That's -- that's really strong language from Mr.  
13 Lafuente, we believe that he continues to be the conscious here  
14 for Mr. Miller in many ways and believe he continues to serve a  
15 role -- an important role -- and the Government in no way thinks  
16 that Mr. Mill -- Mr. Lafuente has counseled Mr. Miller in any  
17 direction, other than compliance with the law to date.

18           The one commitment that Mr. Miller -- Mr. Miller made  
19 at that hearing beyond saying that he would cooperate with Mr.  
20 Lafuente, your Honor asked him that twice, was his promise to  
21 pay -- make what was called, a good-faith payment towards the  
22 money that had been due on March 9<sup>th</sup> and those monies, included  
23 reimbursement by way of a civil contempt sanctions fine of  
24 FSIS's investigative costs through the second contempt sanctions  
25 order in the amount of \$55,065.72 due on March 9<sup>th</sup>.

1           And the -- the order was the \$250,000.00 civil  
2 contempt fine, that was to be to the Court's registry by March  
3 9<sup>th</sup>.

4           So, the one thing that I had raised and your Honor  
5 then, proposed to Mr. Miller and Mr. Miller said, he would do,  
6 was make a good-faith payment of \$50,000.00 towards the civil  
7 contempt sanctions fine into the Court's registry by March 18th.  
8 That has not been done.

9           Mr. Lafuente advises me, that he's had communications  
10 with Mr. Miller, that Mr. Miller had mailed a check that it --  
11 because initially, Mr. Miller had issues with the wiring  
12 instructions to the Court's registry -- Mr. Miller had mailed a  
13 check to Mr. Lafuente's previous address, so it went to the  
14 wrong place. So, it's mixed up still.

15           And to the Government's ears that sounds exactly like  
16 what happened with the civil contempt -- excuse me -- the civil  
17 penalties that was due several years ago and it took forever to  
18 get to Mr. Lafuente before the payment was actually made, that  
19 was for \$2500.00 or something like that. But in any event, that  
20 has not been paid so far as far as I understand.

21           The Court had asked the Government whether the  
22 Government can collect on Mr. Miller's Go-Fund-Me site. My  
23 understanding is that depends on who controls the Go-Fund-Me  
24 site's money and whether Mr. Miller can directly access and  
25 withdraw from those cities.

1           So, we don't have sufficient information about that at  
2   this point to know whether we can directly collect against those  
3   Go-Fund-Me sites' funds. I think, Mr. Flanagan will testify  
4   today, that he look at the Go-Fund-Me sites yesterday and  
5   they're -- I believe -- at \$160,000.00 or so, but he can testify  
6   to the precise details about that.

7           But in any event, Mr. Miller has sizable assets apart  
8   from that, that the Government could certainly seek to collect  
9   on. And I'll -- I'll make -- discuss those in a moment.

10          One thing Mr. Miller said at that March 9<sup>th</sup> hearing  
11   was, if Prairie -- started helping me is not an option, we  
12   always look for other options.

13          And that's certainly, the Government sense, that when  
14   Mr. Miller is faced with an order from the Court or with the  
15   law, he's always looking for another way to accomplish what he  
16   wants to accomplish and our concern remains that he's looking  
17   for illegal, non-compliant ways to -- to move forward as he has  
18   in the past.

19          Mr. Miller did say:

20                I would like to take a little more time to change the  
21   website and the source of the funding to pay the  
22   liabilities in full.

23          Our understanding is, that hasn't happened.

24          Again, Mr. Lapsley was denied access just two days  
25   after that last hearing when Mr. Miller said, he would comply.

1           Mr. Miller filed on March 31<sup>st</sup>, it's Docket Entry No.  
2   156, a submission saying that he had directed his website  
3   managers to mark products not for sale and you'll hear some  
4   testimony about the website.

5           And he also said that his March 18<sup>th</sup> newsletter to  
6   customers said, there would be no more sales of meat and poultry  
7   products until further notice. So, we'll hear from our -- Mr.  
8   (indiscernible) about that.

9           And then, he also realized, I'm -- I'm reading Robert  
10   Louis Stevenson's *Dr. Jekyll and Mr. Hyde* right now -- and Mr.  
11   Miller in this recent submission, talks about the internal  
12   struggle which he's facing between -- sort of the dark side --  
13   and his side that may be inclined towards compliance and he  
14   talks about his need to subordinate his struggle -- those were  
15   his words -- to the Court's orders because of the real  
16   possibility of being held in criminal contempt and losing his  
17   farm.

18           So, it sounds -- I don't know if Mr. Miller actually  
19   wrote those or somebody else wrote that for him -- but if so, it  
20   sounds like he's appreciating the real risks that he's not  
21   facing. And we -- we are concerned about actions rather than  
22   just words, but we're certainly interested in hearing anything  
23   that Mr. Miller wants to say along those lines today, after he  
24   gets his Fifth Amendment advisement.

25           Mr. Miller also said that he has formed an independent



1 three-member board of governors to oversee the operations of the  
2 farm, including sales and shipments to assure the Court that the  
3 order will be strictly followed. And he also refers to those  
4 three board members as volunteers with integrity.

5 So, we certainly, would like to hear about the details  
6 of that, I do a lot of compliance work in the health care area  
7 and usually, when there is a compliance board, they are  
8 independent folks, so that you don't just have a echo chamber of  
9 compliance people, who are choir boys and choir girls, but  
10 people who will be a check and balance on an operation.

11 So, anything that Mr. Miller wants to share with us --  
12 with us -- about that setup we're, certainly, all ears on, but  
13 if it's -- for example, the equivalent of Sam's Club having  
14 three of its buyer's club members, who have no ownership or  
15 employee status within Sam's Club, just sharing their views with  
16 Mr. Miller, we do question, you know, the value of this. But  
17 certainly Mr. Miller listening to sound voices and reasonable  
18 voices is always a good thing.

19 So, again as -- as envisioned today, the plan would be  
20 to hear from Lapsley, I understand that, maybe, he has submitted  
21 some reports to the Court, we have not seen those and hear about  
22 whether he's had continuing issues with access and has made any  
23 findings.

24 To hear from Mr. Flanagan regarding any issues since  
25 the last hearing that FSIS has heard and to hear from Mr.

1 Miller.

2 We will listen today as we'd consider our next step.

3 I am the attorney in the Civil Division of the U.S. Attorney's  
4 office, I can't speak for the Criminal Division. I have been in  
5 consultation with our Collections Unit, if we'd proceed to  
6 collection against -- against Mr. Miller's assets for the  
7 outstanding sums, that would be a different Assistant U.S.  
8 Attorney from my office, who would handle that.

9 And if we were to proceed in that direction fairly  
10 soon, what we would do, your Honor, is we would propose an order  
11 to your Honor that would elaborate on there being an actual  
12 judgment, we think that's already in the -- in the contempt  
13 sanctions order, but it would spell it out in greater detail,  
14 that there would be a judgment for these outstanding funds that  
15 could be collected against Mr. Miller's assets.

16 We would likely seek to add Mr. Miller's wife, Rebecca  
17 Miller, as a party to this case under Federal Rule of Civil  
18 Procedure 19, because it's our understanding and your Honor has  
19 already make findings in this case, that she is a co-owner of  
20 Miller's Organic Farm and she is also on the farm's deed, at  
21 least, that's my understanding.

22 And we've already identified Mr. Miller's assets that  
23 -- against which, the Government could execute a judgment.

24 We believe that compliance oversight is seen here, but  
25 again, we need competent, objective individuals with real

1 authority and we haven't heard any detail on that yet.

2 I could go through the key provisions of the second  
3 contempt sanctions order for your Honor in terms of the  
4 injunction provisions there that the witnesses will be  
5 testifying about today, but otherwise, I -- I'm done at this  
6 point.

7 THE COURT: And Mr. Lafuente, are you in agreement  
8 with the idea of Mr. Lapsley giving his report followed by the  
9 Government calling, Mr. Flanagan to provide whatever testimony  
10 he might have and then, Mr. --

11 MR. LAFUENTE: Yes -- yes, your Honor, I --

12 THE COURT: -- Mr. Miller would then be given an  
13 opportunity?

14 MR. LAFUENTE: -- I --

15 THE COURT: And Mr. Miller, that's agreeable to you?

16 THE DEFENDANT: Yes.

17 THE COURT: Very well, sir.

18 Mr. Lapsley, if would please come up to the stand, we  
19 are going to have you sworn, even though you're my expert in  
20 this case and then, we're going to have you give your report.

21 (Pause at 1:36 p.m.)

22 THE COURT: Good afternoon, sir.

23 GEORGE DAVID LAPSLEY, SWORN.

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Thank you very much, ma'am.

1 Sir, please be seated.

2 MR. SULLIVAN: Your Honor, if you would prefer, I can  
3 try to lead Mr. Lapsley through some questions or I -- I don't  
4 know if you'd want just to narrate the report?

5 THE COURT: I'll leave that up to him.

6 First of all, I'm going to have you state your full  
7 name for the record, sir.

8 THE WITNESS: George David Lapsley.

9 THE COURT: And you are the Court's appointed expert  
10 in this matter?

11 THE WITNESS: Correct.

12 THE COURT: Would you feel more comfortable if the  
13 Assistant United States Attorney led you or are you prepared to  
14 give your report?

15 THE WITNESS: Ah, I'd rather Mr. Sullivan.

16 THE COURT: Very well. Counsel, you may proceed.

17 DIRECT EXAMINATION

18 BY MR. SULLIVAN:

19 Q. And Mr. Lapsley, Mr. Lafuente, of course, will have a  
20 chance to ask you questions as well and the Judge may ask you  
21 questions, but -- when I'm done, if you'd want to -- I'll give  
22 you a chance to add anything that I don't cover.

23 A. Very good.

24 Q. Am I right that you've been submitting reports to the  
25 Judge?

1 A. Each visit, yes, sir.

2 Q. And for some of the questions, I am asking you, we haven't  
3 had discussions before today, apart from the discussion about  
4 your wish that we'd propose an order to the Judge about the  
5 Marshals accompanying you --

6 A. Correct.

7 Q. -- earlier in March?

8 So, I am relying on what FSIS has told me, based on,  
9 maybe, two discussions they have had with you for some of these  
10 questions.

11 You testified at the telephonic hearing on March 9<sup>th</sup> of  
12 this year, am I right, that on February 11<sup>th</sup>, 2022, you went to  
13 Miller's Organic Farm?

14 A. Correct.

15 Q. And one of Mr. Miller's employees, Levi -- and the last  
16 name, again, with an R -- said that you were not able to access  
17 the farm without Mr. Miller's permission, is that right?

18 A. Correct.

19 Q. On that date, you saw two women at the farm packing frozen  
20 meat and poultry products, is that right?

21 A. Correct.

22 Q. And was that the farm at six -- the main farm at 648 Mill  
23 Creek School Road?

24 A. Yes, sir.

25 Q. And then, you testified on that date, that on February

1 19<sup>th</sup>, which was a Saturday, you went to the farm but no one was  
2 working on that date and the doors were locked, is that right?

3 A. No, the doors were open, sir.

4 Q. Okay.

5 Did you go into the facility?

6 A. Yes, yes, I did, I went in, there was no activity.

7 Q. Anything that looked disturbed that's remarkable --

8 A. No, sir.

9 Q. -- on that date?

10 You also testified on March 9<sup>th</sup>, that on March 4<sup>th</sup>, a  
11 couple of days before, when you went to the farm, Mr. Miller  
12 said, that you had to contact his legal team at first, is that  
13 right?

14 A. Correct.

15 Q. And then, you did have some sort of discussions with  
16 somebody, right?

17 A. Yes, sir.

18 Q. And then, Mr. Miller stated that, they wanted to know if  
19 there was a compelling public interests for your visit, is that  
20 right?

21 A. Yes, sir.

22 And Mr. Miller was speaking to somebody on the phone,  
23 wrote down a -- a note from that person and the note said:

24 What are the compelling public interest for you to be  
25 here, please respond by paper.

1 Q. Were you able to conduct any sort of oversight on that  
2 occasion?

3 A. No, sir.

4 Mr. Miller would not permit me to go in.

5 Q. And you've testified that on that date, March 4<sup>th</sup>, you again  
6 saw women packing frozen meat and poultry products, is that  
7 right?

8 A. Correct.

9 Q. Were you able to observe anything in particular about what  
10 -- what sorts of meat and poultry products, I mean, they were  
11 frozen, anything else, labels, anything like that?

12 A. Ah, one was labeled, ground beef.

13 Q. Okay.

14 A. And I -- I asked the young lady, what it was and she showed  
15 it to me.

16 Q. Did you ask any questions of those employees about when  
17 that had been slaughtered, anything like that?

18 A. No, no. They -- they were -- ah -- avoiding contact with  
19 me, the young ladies.

20 Q. You testified -- excuse me -- two days after you testified  
21 on March 11<sup>th</sup>, you communicated to the Judge and to Mr. Lafuente  
22 and myself by email, I believe, that you tried to access Mr.  
23 Miller's farm but were denied.

24 And you wrote asking, that I'd submit a proposed order  
25 that the Marshals assist you for a visit on March 17<sup>th</sup>, is that

1 right?

2 A. Correct.

3 And -- and then, I want to make it very clear, I made  
4 it very clear in the order -- well, in the request, rather --  
5 there was no threats by Mr. Miller, by any of Mr. Miller's  
6 personnel, I did not feel my safety threatened, I just was not  
7 permitted access to the facility -- well, I was not permitted  
8 access to speak with the personnel.

9 Q. So, you showed up on March 11<sup>th</sup> and who said what to you, if  
10 you remember?

11 A. Ah, oh, I told -- I told Mr. -- Mr. Miller said, are we  
12 gonna do the inventory today? I said, not today, we're going to  
13 take a tour and I am going to interview some people. He said,  
14 who are you gonna interview? I said, I want to speak -- speak  
15 -- start with the young ladies doing the packing. And he said,  
16 he had to have that cleared with his wife and he went to  
17 wherever his wife was in the house.

18 And he came back and said, you can talk to the men,  
19 but you can't speak to the ladies. I asked, why? He said,  
20 because the girls are afraid of outsiders. And I said, I'm  
21 supposed to speak with everybody and he said, you -- you're not  
22 speaking with the girls, in any way, shape or form.

23 Q. This was on March 11<sup>th</sup>?

24 A. Ah, yes.

25 Q. Were you able to conduct any sort oversight on that



1 occasion?

2 A. Ah, I took a tour of the facility and I asked to speak with  
3 some people and he said, you can only speak to the men. I said,  
4 I wanted to talk to them up in the kitchen, there is a kitchen  
5 area upstairs, I've been -- he said, no, they're -- they're  
6 talking right down here.

7 I told Mr. Miller, I needed some kind of privacy as it  
8 were and he said, no, I -- I have to protect my personnel. I  
9 said, what are you protecting them from, Mr. Miller? He said,  
10 from your intimidation and your threats. I'd spoke quickly with  
11 three people, I was getting nowhere and that was the end of it.

12 Q. Is it your understanding that -- that court order  
13 appointing you and/or the second contempt sanctions order that  
14 the Court entered on February 7<sup>th</sup>, expressly states that you were  
15 allowed to have those sorts of private-interview conversations  
16 with Miller's employees and staff members?

17 A. Yes, sir.

18 I highlighted that in the order I showed Mr. Miller  
19 and he said, that's -- you're not gonna do that.

20 Q. So, you reached out to the Court and to my office and  
21 probably, Mr. Lafuente, asking for the Marshal's assistance, at  
22 that point, why were you asking for the Marshall's assistance?

23 A. So, I -- when I set up the inventory, I wanted to make  
24 sure, I could get into the facility and perform the inventory.

25 Q. So, the date you suggested you had suggested you would be

1 going back was March 17<sup>th</sup>, did you go back on March 17<sup>th</sup>?

2 A. Correct.

3 Q. And what happened then?

4 A. Ah, Mr. Miller had two personnel in the back working with  
5 me pulling product out of the freezer, we'd tag it, we'd count  
6 it and these gentlemen would put it back.

7 I -- with the Mar -- because I had the Marshals there,  
8 we went next door to the other property --

9 Q. The other property being 672 Mill Creek School Road?

10 A. Correct.

11 There were two trailers there, we accessed the  
12 trailers, one was completely empty and no refrigeration running.  
13 The other trailer was set up for a processing-type -- ah --  
14 facility. There was no activity going there, there was no  
15 indication of any activity.

16 We -- we checked the out buildings and there was no  
17 storage or activity going on at that time.

18 Q. Did you observe at the 672 Mill Creek School Road property  
19 in either of the trailers, any product -- poultry products --  
20 with red stickers, U.S. -- USDA -- their stickers on them?

21 A. No, sir.

22 The -- the one was complete -- the one trailer was  
23 completely empty and the other trailer just had tables in the  
24 processing area, no product, no -- with stickers or without  
25 stickers.

1 Q. We'll come back to that.

2 Anything else that is noteworthy that happened on  
3 March 17<sup>th</sup>?

4 A. Ah, no -- ah, not at all.

5 Q. Did you then return without the Marshals to Miller's  
6 Organic Farm on March the 23<sup>rd</sup>?

7 A. Hmm, let me --

8 Q. Or I'll just ask you, what was the next occasion that you  
9 returned?

10 A. The 19<sup>th</sup>, then.

11 Q. Okay. What happened then?

12 A. Ah, we had an announced visit and we finished the -- I'm  
13 sorry, that wasn't the 19<sup>th</sup>, excuse me for one second, that's  
14 when we had the Marshals with us.

15 Q. And I'm relying on second-hand information, I --  
16 information from FS -- FSIS that you returned on March 23<sup>rd</sup>, but  
17 that may be incorrect?

18 A. Yes, it -- March 23<sup>rd</sup>, I did -- yes, sir, I did return.

19 Q. Okay, all right.

20 A. And --

21 Q. And that occasion, was -- by the end of that day, had you  
22 finished half of the inventory?

23 A. Yeah, we finished -- finished most of the inventory.

24 And then, I observed some packing going on and at that  
25 time, I observed, ah, four instances where meat and poultry were

1     being shipped, two -- ah -- personnel, I have their names.

2                 Mr. Miller requested that their names not be made  
3     public and I assured Mr. Miller that they would not be made  
4     public by me, I just turn over everything to the Court.

5                 Also at that time, Mr. Miller's personnel -- ah --  
6     circled me as it were, again, not in a threatening manner but in  
7     a manner, that let me know they were there and a number of them  
8     expressed concerns, if I was there to put them out of business.  
9     My reports would put them out of business.

10                And again, I'd just assured them that I was only there  
11     taking an inventory and writing down information.

12                I went and looked in another building with Mr. Miller  
13     and two of his personnel, I said, let's see what's over there, a  
14     large garage-like building and Mr. Miller says, we have weddings  
15     here and we store stuff upstairs. We looked upstairs and it was  
16     mostly packaging material that Mr. Miller's personnel prepared.

17                And he said, do you want to know why these two -- two  
18     men are here? I said, sure. Then, he said, well, they're here  
19     to make sure, you don't put me out of business today, because  
20     they're very concerned, you would put me out of business and he  
21     -- I said, Mr. Miller, again, I'm just here to write down  
22     numbers and look around.

23     Q.     These two individuals, did they give their name?

24     A.     Ah, one was Samuel and one was John, they were working with  
25     me in the free --

1 Q. Were they -- understanding of whether they are Miller's  
2 employees or staff members or members --

3 A. They -- they are -- well, I assume they're Miller's  
4 employees, because they were helping me with the inventory.

5 Q. And when you had referred to the individuals that had been  
6 circling you before, are those two individuals, two of those  
7 people that were doing that?

8 A. They were there -- they were present also, yes, sir.

9 Q. And everyone who was present, was an employee to your  
10 knowledge or a staff member?

11 A. Everybody was working in that facility at one time or  
12 another, yes, sir.

13 Q. Without giving the names of the individuals to whom those  
14 products were being sent or entities, can you give us a general  
15 description of -- do you know -- could you tell whether these  
16 were Miller's Organic Farm customers, whether they were food  
17 club, whether they were entities, transportation entities?

18 A. No, they just were being shipped to -- ah -- individual  
19 addresses, they weren't being shipped to a club, *per se*. I  
20 don't know if they claimed a membership, ah, but one was sent to  
21 a house in Plano, Texas, one in Hot Springs, Arkansas, ah,  
22 Othallo, Missouri and Scottsdale, Arizona.

23 Q. And were these boxes or were they --

24 A. They were -- they were packages in larger boxes and they  
25 had other materials in there, like, a butter or a cheese or some

1 other things that Mr. Miller sells, I did not record those,  
2 like, we're not interested in those, I understand.

3 Q. Did each package have, at least, some meat or poultry?

4 A. Ah, these four packages did, yes, sir.

5 Q. Any other observations from March 23<sup>rd</sup> or any other concerns  
6 you had, based on that visit?

7 A. Ah, no, sir.

8 Q. Did you review any invoice-type records, sales records on  
9 that occasion?

10 A. Well, yeah, they -- those -- that's where I got these --  
11 these names from, I -- I initially asked Mr. Miller for shipping  
12 records and Mr. Miller gave me his UPS book. And I said, I  
13 would like something more specific. He went into a house or an  
14 office and got some more records and that's where these names  
15 came from. And again, he expressed his concern that the -- the  
16 purchasers' names aren't made public.

17 Q. Did you determine by that point, anything about the  
18 location of the approximately, 15,340 pounds of frozen product,  
19 poultry, that are a product that FSIS detained on September 8<sup>th</sup>,  
20 2021?

21 A. Ah, I -- I don't know the weights, but there was product  
22 detained by the USDA/FSIS in the back freezer, there was cases  
23 of it, as soon as you walked in on the right and the tags were  
24 still present and there were barrels in the aisles, that still  
25 had tags on it.

1 Q. That was -- that was all at 648 Mill Creek School Road?

2 A. Yes, sir.

3 Q. Did you next return to Miller's Organic Farm on April 4<sup>th</sup>?

4 A. Yes, sir.

5 Q. And on that date, did you continue conducting the  
6 inventory?

7 A. Yes, sir.

8 And -- and prior to the inventory starting, I just  
9 took a quick tour and I saw that they were -- that, ah, chicken  
10 backs and necks were being processed.

11 And a -- a gentleman named Henry told me that was  
12 going for broth, which then, I don't know if it was brought to  
13 -- depending on the content, however, I do know that it would  
14 probably invalidate the inventory, if I had already counted  
15 those necks and backs or if I hadn't counted them, it was  
16 invalidated in the -- (indiscernible).

17 Q. And I -- I've distinguish between Miller's employees and  
18 staff, because my understanding is, that Miller's makes that  
19 distinction as well, is it your understanding that Henry was a  
20 Miller's employee or a staff member?

21 A. Yes, he was.

22 Q. And did anybody tell you anything more about why they were  
23 making broth at that -- on that occasion?

24 A. No, they just said, it's -- they make a lot of broth and  
25 it's good for you and they do process quite a bit of it.

1 Q. And are you aware of the part of the second contempt  
2 sanctions order, that talks about findings about broth being  
3 made at Miller's Organic Farm?

4 A. Ah, I -- yes, sir.

5 Q. Any -- from your visit to Miller's Organic Farm on that  
6 occasion that was noteworthy?

7 A. Not at all.

8 Q. Okay.

9 Did you then return to Miller's Organic Farm  
10 yesterday --

11 A. Yes.

12 Q. -- April -- April 11<sup>th</sup>?

13 A. Yes, we -- yes, I did.

14 Q. And before we talk about yesterday, any other visits that  
15 we haven't covered?

16 A. No, sir.

17 Q. Okay.

18 What happened yesterday?

19 A. Yesterday, I went to finish the inventory at the farm, Mr.  
20 Miller was not present. Mr. Miller told me, he would not be  
21 present, last week when we spoke. He said, I'll make somebody  
22 available and he did. We finished the inventory with a Samuel,  
23 who I worked with before and who had always been very  
24 cooperative. The inventory took, maybe, an hour to complete. I  
25 took a tour around the building, quickly and the -- the grounds.



1 Nothing noteworthy as far as this Court is concerned.

2 Q. Did you say, you finished the inventory, is the inventory  
3 done?

4 A. The inventory is done, it would be -- ah -- consolidated by  
5 the end of this week.

6 Q. And does that include observations to your knowledge of all  
7 Miller's facilities where product is located?

8 A. Ah, if -- if everything that I saw was presented to me, I  
9 saw nothing at 72 and we looked around a little bit at 48 and  
10 that's everything I saw.

11 Q. Now, that second contempt sanctions order at Paragraph 122,  
12 127 and 128 states that, Mr. Miller was to provide you  
13 cooperation with marking, separating and segregating inventory,  
14 otherwise -- in other areas of the order, he's required to  
15 identify products for you at locations, to your knowledge, has  
16 he done all of that?

17 A. Yeah -- yes, sir.

18 Q. You're not aware of product at other locations, then?

19 A. No, sir.

20 And Mr. Miller did make it a point -- ah -- after we  
21 had seen the trailer, he said, we still have the -- the freezer  
22 towards the front of the building, make sure you get that.

23 Q. Have you observed any FSIS/USDA red container tags that  
24 look like what I'm holding up right now (indicating) in any  
25 freezer at Miller's Organic Farm?

1 A. No, sir.

2 I saw -- I saw the Miller ones, I -- and I'm not  
3 saying, they weren't there, 'cause some of them the -- the tape  
4 holding them had fallen down, they might have been there and  
5 fallen off, but I -- I did not notice them.

6 Q. At any time, have you noticed anything about how shipping  
7 boxes at Miller's Organic Farm are labeled or marked, apart --

8 A. Just --

9 Q. -- apart from what you've already told us?

10 A. No, just with the -- the address of the person or the  
11 traditional shipping label printed out.

12 Q. Have you seen any labeling, any invoicing to food clubs?

13 A. Yes.

14 And I -- I can't remember the name, ah, or there was  
15 some food clubs and Mr. Miller pointed out their names to me,  
16 which I forget at the moment here.

17 Q. Have you heard any reference or seen anything in writing at  
18 Miller's Organic Farm, referring to a farm or an entity known as  
19 Sunrise View Farm?

20 A. No, sir.

21 Q. Have you made any obser -- other observations about how Mr.  
22 Miller is selling or distributing meat or poultry products since  
23 February 7<sup>th</sup>?

24 A. Ah, on his website on the Miller's -- and again, the  
25 Miller's Organic website, I saw, in March, they had a big

1 blowout sale as it were and meat and poultry were listed on  
2 there while supplies last and I -- provided a copy of that to  
3 the Court.

4 Q. I'll ask you about that in a second.

5 As you've been assessing the inventory, have you  
6 noticed whether the inventory is going down in volume?

7 A. No, sir, I have not.

8 Q. Do you have a belief as to whether Mr. Miller, Miller's  
9 Organic Farm are currently selling and distributing meat and  
10 poultry products?

11 A. I've seen them do it, yes, sir.

12 Q. Have you observed whether the retail store at the 648 Mill  
13 Creek School Road property is opened or closed on days when  
14 you're there?

15 A. It's open.

16 Q. Have you seen customers coming in?

17 A. Yes, sir.

18 Q. Have you seen any customer at that site at the retail store  
19 purchasing meat or poultry?

20 A. No, sir.

21 I've -- an observation I've made is there -- on the  
22 front door of the -- Mr. Miller's operation, there is supposed  
23 to be an FSIS-approved statement saying that they're not  
24 permitted to sell meat and poultry and that has never been  
25 there.

1 Q. It's never been posted?

2 A. No, sir.

3 Q. And you are referring to Paragraph 120 of the second  
4 contempt sanctions order, February 7<sup>th</sup>, which enjoins Mr. Miller  
5 by February 17<sup>th</sup> to have placed an FSIS-approved agent on the  
6 front of all retail store doors, right?

7 A. Correct, that's never been there.

8 Q. And when you referred to the website -- ah, Paragraph 119  
9 of the second contempt sanctions order enjoining the defendants  
10 here by February 17<sup>th</sup> to have posted on their website, the social  
11 media pages, an FSIS-approved statement, regarding the cessation  
12 of the poultry sales and also that, some of those sites would be  
13 removed by that date, February 17<sup>th</sup>, any refer -- references to  
14 meats and poultry, correct?

15 A. Correct.

16 Q. And you've gone on the website for Mr. Miller's farm, is  
17 that right?

18 A. Yes -- yes, sir.

19 Q. And you have made an observation about whether he's still  
20 offering meat and poultry on the website, is that right?

21 A. Ah, in -- in March, he was, two days after the last  
22 hearing, he -- he was.

23 In, ah, April, he posted something -- not FSIS  
24 approved that he is asked to stop selling meat and poultry, but  
25 he's also still advertising it.

1 Q. And when was the last time, you looked at the website?

2 A. Yesterday.

3 Q. And he's still advertising meat and poultry products?

4 A. Yes, sir.

5 Q. And those are amenable -- meat and poultry products?

6 A. Yes, sir.

7 Q. And to your knowledge, the statement that he posted, it was  
8 not FSIS approved?

9 A. Correct.

10 Q. Have you -- and if you'd -- strike that.

11 THE COURT: One -- one second -- consulting.

12 (Discussion held off the record at 1:58 p.m.)

13 THE COURT: Okay. We -- we think, we just lost Mr.  
14 Lafuente, so we're going to try to get him back on the line.

15 (Pause at 1:59 p.m. while reconnecting via telephone.)

16 THE COURT: Mr. Lafuente, are you on the line, sir?

17 MR. LAFUENTE: I am here now, your Honor --

18 THE COURT: Okay.

19 MR. LAFUENTE: -- I think, I got cut off.

20 THE COURT: No problem, sorry about that.

21 Assistant United States Attorney Sullivan, you may  
22 continue with your question.

23 MR. SULLIVAN: Yes.

24 BY MR. SULLIVAN:

25 Q. I'm almost done, Mr. La -- Mr. Lapsley.

1                   Mr. Lapsley, when you were conducting your visits at  
2   648 Mill Creek School Road, the main farm, did you enter,  
3   observe the contents of a refrigerated trailer next to the main  
4   building there?

5   A.   Yes, sir.

6   Q.   Did you observe any products there with these sorts of red  
7   container tags that I'm holding up, (indicating)?

8   A.   None at all, sir.

9   Q.   Did you observe any product in milk crates in the trailer?

10   A.   Yes, sir, quite a few.

11   Q.   Half full, a quarter full, do you recall?

12   A.   Ah, that -- and we inventoried all of that, but it was in  
13   milk crates, yes, sir.

14   Q.   Do you recall if those were poultry products, new products,  
15   mixed?

16   A.   Yes, sir.   And --

17   Q.   Which one?

18   A.   I'm -- I'm sorry?

19   Q.   Mixed?

20   A.   It -- it was mostly poultry products, almost -- I would  
21   say, almost exclusively poultry products, there might have been  
22   one or two red meat, but it was almost exclusively poultry --

23   Q.   Did Mr. --

24   A.   -- and -- and potato chips.

25   Q.   -- did Mr. Miller or any of his employees tell you anything

1 about the contents of that trailer?

2 A. No, sir.

3 Q. Can -- can you approximate poundage of the products you saw  
4 in there?

5 A. Oh, no.

6 Q. Okay.

7 And at 648 Mill Creek School Road, where was the  
8 detained product -- we've talked about 672 Mill Creek School  
9 Road a second ago, but did you observe products in a particular  
10 area or areas at the 648 property with these red tags?

11 A. Ah, I noticed that -- there was detained product in the  
12 freezer in the back past the kill floor, ah, again, on the right  
13 as soon as you walked in and in the -- in a little hallway in  
14 the freezer in bags.

15 Q. And your inventory will state where the location of all of  
16 that is?

17 A. I did not inventory that --

18 Q. Okay.

19 A. -- 'cause it was already -- it was already accounted for, I  
20 did not detain -- ah, I did not inventory that.

21 Q. Did you observe at either property, any postings from the  
22 U.S. Marshal Services regarding products being arrested or  
23 anything else?

24 A. No, sir.

25 Q. Have you had any interactions with anyone identifying

1    himself or herself as a Miller's Organic Farm board member?

2    A.    No, sir.

3    Q.    Am I right, that you have not been permitted by Mr. Miller  
4    to interview any of his employees or staff outside of his  
5    presence?

6    A.    Correct.

7    Q.    Have you been allowed to interview any female employees or  
8    staff members, even in his presence?

9    A.    I was specifically instructed, I would not be allowed to  
10    speak with any females.

11   Q.    And it's your understanding, though, that that direction  
12   came from Mr. Miller's wife, Becky?

13   A.    Mr. Miller told me, it came from his wife, yes, those  
14   instructions.

15   Q.    So, Mr. Lapsley, at this point, have you recently had any  
16   issues with access to the farm?

17   A.    No, sir.

18   Q.    But you have had issues with access to employees and staff  
19   members to conduct interviews, is that right?

20   A.    Correct.

21   Q.    At this point, what is your opinion as to whether Mr.  
22   Miller has been complying with Paragraph 118 of the second  
23   contempt sanctions order, which enjoined his meat and poultry  
24   operations and activities to cease?

25   A.    Mr. Miller is not complying.



1 Q. And that -- and when you say, he's not complying, he's not  
2 complying as to amenable meat and poultry products?

3 A. Correct.

4 Q. What is your opinion at this point as to compliance with  
5 Paragraph 119 of the second contempt sanctions order, enjoining  
6 the FSIS-approved statement on websites and social media pages  
7 on the removal of references to meat and poultry products?

8 A. That is not present.

9 Q. And your view is that, he has not complied with Paragraph  
10 120 of the order, which required the FSIS-approved statement on  
11 retail-store doors, right?

12 A. Correct.

13 Q. What is your opinion on Paragraph 121 of the second  
14 contempt sanctions order, which enjoins the defendant from  
15 moving any inventory without notice to you and FSIS and FSIS's  
16 approval?

17 A. He is not compliant.

18 Q. In what way is he not complying, he's removed it?

19 A. He's -- he used it, he used it and he shipped it.

20 (Pause at 2:04 p.m.)

21 BY MR. SULLIVAN:

22 Q. And did Mr. Miller sufficiently segregate product, so that  
23 you could conduct an appropriate inventory, do you believe?

24 A. Yeah -- yes, Mr. Miller's personnel were quite -- ah --  
25 quite helpful and cooperative in that process.

1 Q. And I could save this question for the Judge, if he wants  
2 to ask it today or at another point, but my question to you at  
3 this point would be, what do you foresee your role being at --  
4 at this stage going forward, do you feel that you are still  
5 serving a meaningful purpose or not, what would you propose if  
6 the Court were to allow me to ask that?

7 A. It -- it depends on what is determined today. I can  
8 continue to go back and observe or if the Court and Mr. Lafuente  
9 or yourself, feel you have enough information, I can step aside.

10 Q. Do you have anything specifically in mind, that you feel  
11 that you can accomplish over the next month, for example, where  
12 you feel like you're meaningfully engaging with Mr. Miller or  
13 providing meaningful oversight and you can play a constructive  
14 role over the next several weeks or do you -- on the contrary,  
15 feel frustrated in your efforts to comply -- I mean, to  
16 meaningfully over -- overview this whole situation?

17 A. If -- if the -- the previous behaviors as it were,  
18 continue, it would be a waste of -- ah -- my time and the  
19 Court's time to -- to go out, unless Mr. Miller will comply with  
20 the Court orders, which he has not complied fully with.

21 MR. SULLIVAN: No further questions at this time, your  
22 Honor.

23 THE COURT: Thank you, Assistant United States  
24 Attorney Sullivan.

25 Mr. Lafuente, do you have any questions for Mr.

1 Lapsley?

2 MR. LAFUENTE: Just a couple.

3 CROSS-EXAMINATION

4 BY MR. LAFUENTE:

5 Q. Mr. Lapsley, so if I understand your testimony correctly,  
6 you're not testifying that Mr. Miller is just being flagrantly  
7 defiant, I mean, he is complying to some extent, right?

8 A. I didn't hear the last part, sir.

9 Q. Mr. -- Mr. Miller had been complying to -- to some extent,  
10 right?

11 A. I didn't understand it.

12 THE COURT: Is Mr. Miller being compliant to some  
13 extent?

14 THE WITNESS: Yes.

15 He -- he permitted me to do the inventory, yes.

16 Q. Okay.

17 And the inventory is done, correct?

18 A. Correct.

19 Q. All the arrested product has been accounted for, correct?

20 A. I don't know that, sir, what was put in front of me was  
21 counted, but I did see some product being shipped and I saw some  
22 product being processed, I don't know where that shows up in the  
23 inventory.

24 Q. Okay. That's fair enough.

25 Now, was -- your communications with Mr. Miller, when

1     you noticed that the places -- the times that he was not being  
2     compliant, did you confront him with that, did you tell him,  
3     that he wasn't compliant?

4     A.    Yes, sir.

5     Q.    And -- and was he willing to -- to listen to you on how to  
6     come about getting into compliance?

7     A.    No, sir.

8     Q.    Okay.

9                 He just told you, he's not gonna do that?

10    A.    Ah, Mr. Miller would say, ah, he didn't believe that or he  
11    would just walk away and refuse to answer my questions.

12    Q.    Okay.

13                 But are -- are you willing to help him -- bring him  
14    into compliance?

15    A.    If directed, yes, sir.

16    Q.    Okay.

17                 I have no further questions, Judge.

18                 THE COURT:   Okay.

19                 Assistant United States Attorney Sullivan, do you have  
20    any redirect?

21                 MR. SULLIVAN:  Nothing further at this time, other  
22    than just to ask Mr. Lapsley, if there is anything, we didn't  
23    cover that he wants to state?

24                 THE WITNESS:  No, sir.

25                 THE COURT:   And Mr. Lapsley, when you say that you

1 would be willing to assist Mr. Miller in becoming compliant, do  
2 you see that as feasible?

3 THE WITNESS: I don't know.

4 THE COURT: And when you say, you don't know, is that  
5 because right now, we are anticipating that, at least, until it  
6 can be done in accordance with the appropriate regulations and  
7 the law, he would have to shut down the sale of meat and  
8 poultry?

9 THE WITNESS: Correct.

10 THE COURT: And he cannot do that or will --  
11 apparently, will not do that --

12 THE WITNESS: Well, he has not shown, he will do that.

13 THE COURT: Okay.

14 Anything else, that he will not do in your opinion?

15 THE WITNESS: Yes.

16 I cannot speak with his employees, ah, there is --  
17 nothing is forthcoming and even with very short answers and --  
18 and no answers.

19 THE COURT: Did you notice any change from the  
20 beginning of March to the beginning of April?

21 THE WITNESS: Ah, Mr. -- yes.

22 Mr. Miller's attitude did change with the inventory  
23 and there were certain things, that Mr. Miller is not going to  
24 permit me to do, such as, speak to his personnel or speak with  
25 his personnel alone.

1 THE COURT: Okay.

2 Now, can you accomplish your purpose without talking  
3 to the women?

4 THE WITNESS: No.

5 THE COURT: Okay.

6 So, you believe in order to fulfil your role, you  
7 would need to be able to talk with all of the employees?

8 THE WITNESS: Yes, sir.

9 And these were women and the women do all the packing,  
10 they do the majority of the packing. There's gentlemen at the  
11 mill, but there are between four and six women doing the packing  
12 and the orders and I am not permitted to speak with them.

13 THE COURT: And based on what you saw, can you  
14 quantify the operation, how large is this operation?

15 THE WITNESS: In what -- what sense, sir?

16 THE COURT: Amounts being sold, amounts being --

17 THE WITNESS: No, I -- I can't, there's -- there's  
18 constant flow through there.

19 THE COURT: Constant flow?

20 THE WITNESS: Yes, sir.

21 THE COURT: How about slaughtering?

22 THE WITNESS: There's none -- I did not witness any.

23 THE COURT: Of anything, not even birds, chickens,  
24 anything?

25 THE WITNESS: Ah, water buffalo only --

1 THE COURT: Okay.

2 THE COURT: -- which is non-amenable.

3 THE COURT: Okay.

4 And do you -- other than the -- other than shutting  
5 down the meat and poultry, if -- if that were to shut down, what  
6 impact would that have on his overall operation?

7 THE WITNESS: I -- I don't know how much he does of  
8 other products, so I can't guess.

9 THE COURT: Okay. All right.

10 Assistant United States Attorney Sullivan, do you have  
11 any questions in light of the Court's questions?

12 MR. SULLIVAN: I -- I have one.

13 REDIRECT EXAMINATION

14 BY MR. SULLIVAN:

15 Q. And that is what -- if you could ballpark your expenses and  
16 your fees and the costs to date?

17 A. Ah, ten -- ten thousand plus or minus.

18 Q. Okay.

19 THE COURT: And Mr. Lafuente, do you have any further  
20 questions of Mr. Lapsley?

21 MR. LAFUENTE: Nothing for me, your Honor.

22 THE COURT: And Mr. Lapsley, I appreciate your  
23 continued service to the Court in this matter. You may step  
24 down and rejoin counsel at counsel table.

25 THE WITNESS: Thank you.

1 (Witness excused at 2:11 p.m.)

2 THE COURT: And Assistant United States Attorney  
3 Sullivan, I understand you wanted to call Mr. Flanagan to make a  
4 record with respect to him?

5 MR. SULLIVAN: Yes, with the Court's --

6 THE COURT: Very well.

7 MR. SULLIVAN: -- the Court's permission.

8 THE COURT: Mr. Flanagan, if you would please  
9 approach. Good afternoon, sir.

10 MR. FLANAGAN: Thank you.

11 THE COURT: And sir, if you would please raise your  
12 right hand to be sworn.

13 PAUL FLANAGAN, GOVERNMENT WITNESS, SWORN.

14 THE WITNESS: Yes.

15 THE COURT: Thank you very much, sir, and sir, please  
16 be seated.

17 And would you please state your full name, spelling  
18 your last name for the record?

19 THE WITNESS: My name is Paul Joseph Flanagan, F-l-a-  
20 n-a-g-a-n.

21 THE COURT: Thank you very much, sir.

22 Assistant United States Attorney Sullivan, you may  
23 proceed, sir.

24 MR. SULLIVAN: Your Honor, if I could have permission  
25 to lead the witness?



1 THE COURT: Certainly.

2 Mr. Lafuente, do you have any objection?

3 MR. LAFUENTE: None, your Honor.

4 THE COURT: All right.

5 DIRECT EXAMINATION

6 BY MR. SULLIVAN:

7 Q. Mr. Flanagan, you've testified previously, I believe, that  
8 you're a compliance investigator with the Compliance and  
9 Investigation Division at FSIS, is that right?

10 A. Yes.

11 Q. And you're in the Philadelphia Compliance sub-office for  
12 the Northeast Region, is that right?

13 A. Yes.

14 Q. Did you have occasion to look at the Go-Fund-Me site  
15 raising money for the defendant yesterday?

16 A. Yes, sir.

17 Q. And what were the balances at that time?

18 A. Three -- there's three Go-Fund-Me sites that I'm aware of,  
19 one has \$6,410.00 in it, one has \$65,286.00 in it and a third  
20 account has \$88,609.00 in it, all three total \$160,305.00 and  
21 that was as of yesterday evening.

22 Q. Do you have any sense for whether Mr. Miller can directly  
23 access any of that money?

24 A. I -- I don't, there is one account that's listed -- ah --  
25 as Amos Miller on behalf of Amos Miller, but previous testimony

1 and being at Miller's, he does not have a computer, so I don't  
2 believe, he could set them up himself.

3 Q. Did you visit Miller's Organic Farm on February 8<sup>th</sup>, 2022?

4 A. I did.

5 Q. What was the purpose of your visit?

6 A. Ah, to verify the status of the detained and arrested meat  
7 and poultry products.

8 And we also used the opportunity to provide Mr. Miller  
9 with a copy of the February 7<sup>th</sup>, 2022 sanction order.

10 Q. Under the Court's orders in this case and the law, the  
11 Federal Meat Inspection Act and the Poultry Products Inspection  
12 Act, was Mr. Miller or Miller's Organic Farm permitted to move  
13 detained or arrested products at the farm?

14 A. No, sir.

15 Q. In fact, is moving the detained or arrested products, a  
16 violation of both -- both Acts?

17 A. Yes, it is.

18 Q. It's a prohibited act?

19 A. It is.

20 Q. And potentially, it could subject the individual moving  
21 that sort of product to criminal liability, correct?

22 A. That's correct.

23 Q. Did all of the detained product at Miller's Organic Farm  
24 have those -- I'll hold it up (indicating) -- one of these  
25 bright red USDA detained tags on it?

1 A. It did.

2 Q. Did the product that the Marshal Service had arrested have  
3 any sort of tag or other label?

4 A. It did, it has the same, detained tag, because we had  
5 detained the product prior to it being arrested.

6 Q. And product had been detained and/or arrested on several  
7 occasions at Miller's Organic Farm and to your knowledge at that  
8 time, you were able to access the sites, that product was still  
9 in these locations?

10 A. The arrested product, the last time, I believe, I was in  
11 there, it was with the Marshals for the arrest of the product.

12 Q. Okay.

13 And the last time, you actually were able to go in and  
14 observe that was when?

15 A. Off the top of my head, I honestly couldn't tell you.

16 Q. This year?

17 A. Ah, no, I don't believe so.

18 Q. Okay.

19 So, we'll just go through your visits this year.

20 So, we're on February 8<sup>th</sup>, were you denied access on  
21 that occasion?

22 A. I was.

23 Q. And who denied access?

24 A. Ah, Mr. Miller.

25 Q. What did he say?

1 A. He said, it was private property and handed me two dockets  
2 or two documents on a Prairie Star National letterhead.

3 Q. Did anything on that occasion, raise a concern for you,  
4 that any of the detained or arrested product had been moved?

5 A. Yes, the -- the six -- it's the 678 property, the adjacent  
6 farm, there was a trailer that I personally had detained product  
7 on -- a refrigerated trailer that was parked alongside Mill  
8 Creek School Road, that trailer was no longer there.

9 Q. And detained product had been in that trailer?

10 A. Correct.

11 Q. Did you go to Miller's Organic Farm on February 17<sup>th</sup> of this  
12 year with a Notice of Warning?

13 A. I did.

14 Q. And was the Notice of Warning regarding the denial of  
15 access on February 8<sup>th</sup>?

16 A. It was.

17 Q. Was the business open on that occasion?

18 A. It was.

19 Q. Did you observe any customers in the retail store?

20 A. Yes.

21 Q. With the denial of access, were you able to observe  
22 anything else?

23 A. No.

24 Q. Have you been reviewing Mr. Miller's websites?

25 A. I have.

1 Q. And what have you observed?

2 A. Ah, I observed two mail websites from food clubs, Moo to  
3 You and FarmMatch and Miller's continues to offer meat and  
4 poultry products for purchase on all but the FarmMatch site.

5 Q. And the last time you looked at those, was when?

6 A. Last night.

7 Q. Has FSIS approved the sort of statement that their second  
8 contempt sanctions order contemplated regarding the cessation of  
9 meat and poultry sales --

10 A. Ah --

11 Q. -- for the -- for the websites and social media sites?

12 A. -- no.

13 Q. No such statement has been presented to FSIS?

14 A. Not that I'm aware of.

15 Q. Did FSIS issue a second Notice of Warning on March 1<sup>st</sup>, 2022  
16 to Mr. Miller?

17 A. Yes.

18 Q. And was that regarding non-compliance on the website?

19 A. Ah, yes.

20 Q. And the failure to post the required statement on the  
21 retail store front doors?

22 A. Correct.

23 Q. And a failure to disclose product locations?

24 A. Yes.

25 Q. And did you attempt to serve Mr. Miller with that Notice of

1 Warning on March 2<sup>nd</sup> of this year?

2 A. I did.

3 Q. Were you able to do so and were you able to gain any access  
4 to the farm on that date?

5 A. On March 1<sup>st</sup>, no, I --

6 Q. March 2<sup>nd</sup>?

7 A. -- or March 2<sup>nd</sup>, yes. We -- I handed it to Mr. Miller.

8 Q. Did you attempt to gain access to the farm on that date?

9 A. Yes.

10 Q. Were you allowed access?

11 A. No.

12 Q. And who denied you access?

13 A. Mr. Miller.

14 Q. Did he say, why?

15 A. No. I'm sorry, I'm looking.

16 (Pause at 2:18 p.m.)

17 Q. And do you recall that Paragraph 117 of the second contempt  
18 sanctions order that the Court issued on February 7<sup>th</sup>, enjoined  
19 Mr. Miller to cooperate with FSIS and to -- to grant access?

20 A. Yes.

21 Q. Did you have occasion to review a post that was made on Mr.  
22 Miller's Facebook page on March 22<sup>nd</sup>?

23 A. Yes.

24 Q. Does that post mention, a several week period of meat and  
25 poultry sales being halted?

1 A. It does.

2 Q. And does it say, that there would be no orders for amenable  
3 products made?

4 A. Correct. They wouldn't be accepted.

5 Q. Did you then go to Dutchland, D-u-t-c-h-l-a-n-d,  
6 Refrigerated Transportation on March 25<sup>th</sup>?

7 A. I did.

8 Q. Where is that located?

9 A. Ah, oh, I can't -- I can't think of the name of the town.

10 Q. In Pennsylvania?

11 A. It is. Newmanstown, Pennsylvania.

12 Q. Is it near Lancaster?

13 A. Ah, not far, probably, about forty minutes away.

14 Q. Had the vice-president of that company told you anything  
15 when you went?

16 A. Ah, he told me that, Miller was still shipping products  
17 through using his -- ah -- his facility, basically, as a cross  
18 stocking, the product would be picked up at Miller's Organic  
19 Farm, brought there and then, separated to go to different  
20 shipment points.

21 Q. Brought to Dutchland?

22 A. Correct.

23 Q. So, on March 25<sup>th</sup>, did you observe anything and if so, what?

24 A. Ah, I did.

25 I observed three shrink-wrapped pallets, one destine

1 for Florida and two for Colorado, each pallet contained thirty  
2 to forty individual boxes containing various Miller's product.

3 The Florida pallet had a piece of paper taped to it  
4 addressed, ah, to the manager of the Moo to You Food Club and it  
5 was addressed from Sunrise View Farm, P.O. Box 86, Bird-in-Hand,  
6 Pennsylvania, 17505.

7 The pallets to be sent to Colorado, were addressed to  
8 two individuals from Miller's Organic Farms.

9 Ah, I opened several of the boxes --

10 Q. Addressed to --

11 A. Oh, I'm sorry.

12 Q. -- two individuals from Miller's Organic Farm, you mean,  
13 two customers?

14 A. Ah, they were addressed to -- yeah, two -- two people, two  
15 customers from Miller's Organic Farm.

16 Q. Did you observe fresh beef liver?

17 A. I did. I opened -- oh, sorry.

18 Q. Go ahead.

19 A. I opened several boxes from each pallet and saw fresh beef  
20 liver with a -- a pack date of 2/7/22.

21 And some products were produced by Olde Tyme Meats and  
22 products with no minimum labeling including broths, I saw meat  
23 and poultry products both being shipped on that day.

24 Q. And one of the pallets was from Sunrise View Farms,  
25 correct?



1 A. Correct.

2 Q. Did you go to the Bird-in-Hand post office, the next day,  
3 March 26<sup>th</sup>?

4 A. I did.

5 Q. And did you speak to an employee there, who told you that  
6 the P.O. Box for Sunrise View Farms is associated with Amos  
7 Miller?

8 A. Correct.

9 Q. And you're aware that the second contempt sanctions order  
10 enjoined Mr. Miller from any further meat and poultry sales and  
11 from moving product?

12 A. I am.

13 Q. So, in your view when -- after Mr. Miller posted that post,  
14 I mentioned on Facebook on March 22<sup>nd</sup>, talking about halting meat  
15 and poultry sales and no orders being made for amenable  
16 products, do you have a view as to whether he has complied with  
17 that since March 22<sup>nd</sup>?

18 A. He has not.

19 Q. Did you have occasion to review, a newsletter Mr. Miller  
20 sent to his members in April stating, we have appointed a three-  
21 man board to guide us in the right direction?

22 A. I did.

23 Q. Do you have any additional information about that three-  
24 member board?

25 A. No, sir.

1 Q. Did FSIS prepare an April 6<sup>th</sup> Notice of Warning to Mr.  
2 Miller?

3 A. Yes.

4 Q. And was that regarding Sales invoices from late March?

5 A. It was.

6 Q. What about those sales invoices, was that what you had  
7 observed at Dutchland?

8 A. Yes, sir.

9 Q. Did you yesterday go to Miller's Organic Farm, April 11<sup>th</sup> to  
10 deliver that Notice of Warning?

11 A. I did.

12 Q. Were you able to deliver it?

13 A. Ah, Mr. Miller was not at the farm and I left it on a  
14 custom -- desk labeled, customer service inside the -- the  
15 retail area.

16 Q. Did you try to get access to the farm yesterday, beyond  
17 just serving that?

18 A. I did.

19 Q. Okay.

20 A. Ah --

21 Q. Were you denied?

22 A. I was told, Mr. Miller wouldn't be back until Wednesday,  
23 that he was out of town and he wouldn't be back, they said,  
24 until Wednesday.

25 I asked the gentleman, who I believe was -- is Mr.

1 Miller's brother, if he would allow us to go in and look at the  
2 product that we had detained and he said, no, we are not  
3 allowed.

4 Q. Have you asked Mr. Miller or has Mr. Miller produced to  
5 you, any information about the locations of his meat and poultry  
6 products at Miller's Organic Farm?

7 A. Ah, at one point in -- I want to say, in March, he said it,  
8 I think, it's still there, but I don't know.

9 Q. But you have not been able to get access to determine that?

10 A. No, we've been denied every time.

11 Q. Have you had any relevant discussions with any local  
12 community member about Miller's Organic Farm or Mr. Miller,  
13 like, Olde Tyme Meats or Belmont Meats, facilities that at which  
14 Mr. Miller for a time in 2021 or so, maybe, 2020, was bringing  
15 products for a federally-inspected slaughter?

16 A. I have.

17 Q. Can you tell us about those?

18 A. Belmont Meats hasn't slaughtered for Mr. Miller in, I  
19 believe, over a year, if not longer.

20 And Olde Tyme Meats has not had any contact with Mr.  
21 Miller since the fall of 2021.

22 Q. And you are stating that based on discussions you've had  
23 with knowledgeable individuals at those establishments?

24 A. Yes, the managers of both facilities.

25 Q. And how recent were those discussions?

1 A. Within the last three weeks.

2 Q. Can you draw any inference from those discussions -- any  
3 reasonable inference -- about whether Mr. Miller has been  
4 slaughtering products without -- amenable products -- without  
5 federal inspection?

6 A. I would --

7 MR. LAFUENTE: Object, it calls for speculation.

8 THE COURT: Excuse me, Mr. Lafuente?

9 MR. LAFUENTE: I'm gonna object, the -- the question  
10 calls for speculation, your Honor.

11 THE COURT: Assistant United States Attorney Sullivan?

12 MR. SULLIVAN: Your Honor, I would say that Mr. -- and  
13 Mr. Flanagan has sufficient experience, that he could express a  
14 -- a view on whether that sort of slaughtering has occurred and  
15 the basis for his view.

16 THE COURT: Right.

17 I think, this goes more to the weight to the Court to  
18 the opinion, I'm going to overrule the objection and allow you  
19 to answer the question, sir.

20 THE WITNESS: I would think based on -- on what we had  
21 observed before being slaughtered at the federal establishments,  
22 if Mr. Miller had continued -- ah -- selling that product, he  
23 would not have any of that product available or very little of  
24 it available.

25 BY MR. SULLIVAN:

1 Q. Mr. Miller had for a time, been operating at 672 Mill Creek  
2 School Road using the name that the Court has so found, Bird-in-  
3 Hand Meats or some equivalent of that name. Have you seen any  
4 product with that name on it in recent months?

5 A. I did, I saw some of that product at -- at Dutchland, ah,  
6 when I --

7 Q. On March 25<sup>th</sup>?

8 A. Yes.

9 Q. Do you have any -- have you made any observations -- do  
10 you have any concerns based on the testimony today and/or your  
11 observations -- about whether previously USDA detained or the  
12 Marshal Service arrested product at Miller's that had been moved  
13 in any way?

14 A. Yes, because the one trailer at the adjacent farm is no  
15 longer there and that -- the only product that was in there that  
16 was detained.

17 Q. To your knowledge, has FSIS ever encountered this situation  
18 before, where detained and arrested product was moved without  
19 permission?

20 A. No, sir.

21 Q. Does FSIS view any such moving of product as an end run  
22 around its enforcement authority?

23 A. It does.

24 Q. Anything that I have asked you about, that you'd want to  
25 add today?

1 A. No, sir.

2 MR. SULLIVAN: No further questions at this time.

3 THE COURT: Mr. Lafuente, do you have any questions  
4 for Mr. Flanagan?

5 MR. LAFUENTE: Briefly, your Honor.

6 CROSS-EXAMINATION

7 BY MR. LAFUENTE:

8 Q. With regard to the arrested product, Mr. Flanagan, did you  
9 -- did you confront Mr. Miller about that?

10 A. I did ask him at one point, when we were there, that we  
11 wanted to see the -- not the arrested product, the detained  
12 product.

13 And Mr. --

14 Q. Okay.

15 A. -- said, I think it's still there but I don't know.

16 Q. But did you -- did you confront him about the trailer that  
17 was missing, that had had the detained product in it?

18 A. No.

19 Q. Okay.

20 So, he -- he hasn't been given the -- to explain where  
21 the trailer is or what's happened to it, right?

22 A. One would assume that he moved the trailer, so, I don't see  
23 any gain for me asking, he was told, that he could not move the  
24 product and apparently, the product --

25 Q. Yeah, but --

1 A. -- was moved.

2 Q. Okay.

3 But we don't know that he moved the product, right?

4 A. I'm sorry?

5 Q. We don't know that he, himself, moved it right, he never  
6 admitted that he moved it, right?

7 A. It was on his property, it was --

8 Q. That's not my -- so --

9 A. -- it was east of him, he was paying the fuel bill for the  
10 trailer.

11 Q. Okay, I understand that, but -- but you don't have -- I  
12 guess, what I'm getting at is, my -- well, Mr. Miller, himself,  
13 never said, yeah, I moved the product, right?

14 A. Ah, Mr. Miller never allowed us access to verify if any of  
15 the products were there.

16 Q. Okay.

17 MR. LAFUENTE: No further questions.

18 THE COURT: Thank you, sir.

19 Assistant United States Attorney Sullivan, any  
20 redirect?

21 REDIRECT EXAMINATION

22 BY MR. SULLIVAN:

23 Q. Mr. Flanagan, despite the Court's plain orders authorizing  
24 FSIS to access the property, Mr. Miller has consistently denied  
25 FSIS's access that would have allowed you to verify with eyes

1 on, you know, to see whether these very obvious plain red tags  
2 were still on the products and the products were still in the  
3 location, that it was not to be moved from, correct?

4 A. Yes.

5 Mr. Miller doesn't even want us inside his retail area  
6 when we'd come in, he -- he asks that we'd leave and stand in  
7 the parking lot. So, we could never ever observe if something  
8 is being shipped.

9 MR. SULLIVAN: No further questions, your Honor.

10 THE COURT: Okay.

11 Mr. Lafuente, anything further of Mr. Flanagan?

12 MR. LAFUENTE: Nothing further, your Honor.

13 THE COURT: Okay.

14 Mr. Flanagan, you've been with case for years now.  
15 And you had previously said, that never have you been as  
16 deferential and allowed a farm to continue to operate and a  
17 slaughter house to continue to operate, you've given Mr. Miller  
18 every -- every opportunity and every chance to become compliant.

19

20 He is obviously running a very profitable farm and I  
21 think, the primary profit comes from the meat and poultry, is  
22 that correct?

23 THE WITNESS: I would think, the other products that  
24 he sells, actually, are more profitable.

25 THE COURT: They're -- is there any way, he becomes



1 compliant with respect to the slaughtering and the sale of meat  
2 and poultry?

3 THE WITNESS: No, I -- I don't think, Mr. Miller is  
4 ever gonna change, it's his way and that's it.

5 THE COURT: Okay.

6 But he could come -- become compliant, he just  
7 doesn't --

8 THE WITNESS: It would be very easy to become  
9 compliant.

10 THE COURT: And when you say, easy, we've been working  
11 at this for a long time and it really would be -- be easy?

12 THE WITNESS: It should be incredibly easy.

13 He was partially doing it --

14 THE COURT: When he was taken the other --

15 THE WITNESS: -- at one point, when he was taking it  
16 to the federal establishment.

17 He spent more money -- I would guess -- with Mr.  
18 Lafuente and fighting this, that he could have built his own  
19 slaughter -- federal slaughterhouse.

20 THE COURT: He could have built his own federal  
21 slaughterhouse --

22 THE WITNESS: Based on his estimates, yes --

23 THE COURT: -- that --

24 THE WITNESS: -- that he provided.

25 THE COURT: -- that would have been in compliance with

1 all regulations?

2 THE WITNESS: Absolutely.

3 And could have sold meat anywhere in the world.

4 THE COURT: And poultry, meat, *et cetera*?

5 THE WITNESS: Yes.

6 And at this point in time, it's actually -- even if  
7 Mr. Miller was only slaughtering a few animals of his own, if he  
8 brought animals in from other local producers, he would allow  
9 them to have a market to sell federally-inspected product  
10 anywhere they wanted to.

11 THE COURT: Now, did we -- you're saying, if he sets  
12 up his own slaughterhouse in compliance with the law, then, not  
13 only could he sell his own products, he could sell other  
14 people's product --

15 THE WITNESS: He could bring in -- I could bring a  
16 steer to him, he could slaughter it, process it under federal  
17 inspection and then, I can sell it, because it's federally  
18 inspected.

19 THE COURT: And how much is the administrative cost to  
20 him to run a proper facility?

21 THE WITNESS: Administrative as far as the USDA, it's  
22 free, we're free for eight hours day for slaughter and  
23 processing inspection.

24 Ah, administrative as far as running the business, it  
25 would all depend on how many head of cattle or hogs or chickens

1     that he wishes to slaughter and how big he wishes to be.

2                 THE COURT:  And now, there's a -- a dual regulatory  
3     scheme here, can you comment on the Pennsylvania Department of  
4     Agriculture and its requirements?

5                 THE WITNESS:  As far as, if Mr. Miller was  
6     slaughtering and processing under federal inspection on his farm  
7     or bringing in federally-inspected individual cuts of meats, ah,  
8     the Pennsylvania Department of Agriculture would probably, want  
9     to look at the retail end.

10                Ah, and that's, I think, more so, if he -- if he is  
11     cutting meats, usually, at the federal establishment, you're  
12     slaughtering and processing and selling for distribution or  
13     selling to restaurants, the state doesn't get involved in that.

14                THE COURT:  So, he has been -- all this time, he could  
15     have easily become compliant and has not?

16                THE WITNESS:  Absolutely.

17                THE COURT:  And do you believe that is because of a  
18     special way, he wants to slaughter his meat and poultry?  Is  
19     there anything -- anything about complying with the regulations  
20     and still being allowed to make sure his product is unique, the  
21     way he wants it to be?

22                THE WITNESS:  I, personally, believe, Mr. Miller's  
23     motives are -- are money.

24                THE COURT:  But would it cost that much to do it  
25     legally?

1 THE WITNESS: No.

2 THE COURT: Okay.

3 Assistant United States Attorney Sullivan, do you have  
4 any questions to add to the Court's questions?

5 BY MR. SULLIVAN:

6 Q. Just that -- the main thing that Mr. Miller raised over the  
7 years, was the application of citric acid to his meat but I  
8 think, we're established through your testimony over the years,  
9 that that's a red herring, right, that that's not necessarily a  
10 Government requirement, it's just a -- a requirement that there  
11 would be something in place to make sure that there are no  
12 pathogens?

13 A. It -- it is, there are -- you have to -- ah -- an  
14 intervention, but an intervention can be trimming, an  
15 intervention can be steam.

16 Ah, Mr. Lapsley is probably well more versed at that  
17 than I am, but citric acid is not a requirement. And when Mr.  
18 Miller was having his livestock slaughtered at Belmont Meats in  
19 speaking with their management, they never used citric acid, but  
20 Mr. Miller continues to tell his customers, we can't have citric  
21 acid on our food, but it was never used.

22 Q. Is it the case, that Mr. Miller over the years has sent  
23 newsletters to his members, that includes polls of his members'  
24 views, but that those polls, for example, include leading  
25 questions, he's sort of suggesting the response that he wants to

1 get and is telling them, his views through his question?

2 A. Yes, absolutely, they're leading questions.

3 Q. Okay.

4 THE COURT: Mr. Lafuente, do you have any questions in  
5 light of the Court's questions?

6 RECROSS-EXAMINATION

7 BY MR. LAFUENTE:

8 Q. I -- I want to get to the catch phrase, again, the term,  
9 nutrient-dense food.

10 A. Explain nutrient-dense food?

11 Q. Well, are you familiar with that term?

12 A. I am.

13 Q. And -- and isn't it true, that Mr. Miller's big -- you  
14 know, the biggest thing about his product is that, his customers  
15 want nutrient-dense foods, right?

16 A. And I'm not being smart when I say that, but we all eat  
17 nutrient-dense food. I have not --

18 Q. The -- the --

19 A. -- I've not been able to get a definition of nutrient-dense  
20 foods from anyone.

21 Q. Right.

22 In other words, I guess, what I'm -- what I'm getting  
23 at is -- is there anything about the federal regulations, if  
24 Mr. Miller were to become a federally-inspected -- ah --  
25 slaughterhouse, is there anything about the regulations that

1 prohibit him from, say, presenting the products the way he wants  
2 it as nutrient-dense, the way he defines it?

3 A. I'm not sure if Ag. Marketing Services has a -- a  
4 regulation on using the term, nutrient-dense as they do with  
5 organic or grass-fed.

6 Q. Okay.

7 And have you had discussions with Mr. Miller about --  
8 about all of this stuff, about -- about -- about, you know,  
9 coming into -- about getting a license?

10 A. With Mr. Miller, oh, multiple times.

11 Q. Yeah.

12 A. I've supplied him with every possible bit of information, I  
13 can, this has been going on now, we're starting in our seventh  
14 year.

15 Q. Right.

16 MR. LAFUENTE: I have no further questions.

17 THE COURT: Thank you.

18 And one of the line of questioning was on the arrest  
19 and the detained meat, was that all meat that was arrested and  
20 detained?

21 THE WITNESS: It was -- without having it in front of  
22 me, I know it was pork -- pork carcass and I believe, there was  
23 some beef involved.

24 THE COURT: And is it your believe that that's gone?

25 THE WITNESS: No.

1           The arrested product from the U.S. Marshals, I believe  
2   it is still there. When Mr. Lapsley explained that he saw a few  
3   barrels in the freezer, carcasses were put in -- cut up and put  
4   in those barrels.

5           And then, there were boxes of products stored under,  
6   basically, we could consider it, like, a pallet rack on the  
7   first level, that product was there. And Mr. Lapsley said, he  
8   observed that.

9           The detained products that we're not able to see is --  
10   one is at the trailer at the -- the adjacent address, that's no  
11   longer there, that was product, I personally, detained.

12           And then, product in the -- in the freezer trailer  
13   alongside the barn, where Mr. Lapsley did his inventory, and  
14   observed the poultry products in the milk crates and there were  
15   no detained tags observed on there. And when you walked in, you  
16   would absolutely know, there's product detained.

17           THE COURT: All right.

18           Any further questions of Mr. Flanagan, Assistant  
19   United States Attorney Sullivan?

20                           CONTINUED REDIRECT EXAMINATION

21   BY MR. SULLIVAN:

22   Q. Mr. Flanagan, the items that were detained late last year,  
23   a good deal of poultry, photographs of those items were included  
24   in our submissions in support of the motion for a show-cause  
25   order late last year, is that right?

1     A.     That's correct.

2                 MR. SULLIVAN:   Nothing further, your Honor.

3                 THE COURT:   Mr. Lafuente, any further questions?

4                 MR. LAFUENTE:   Nothing further, your Honor.

5                 THE COURT:   Very well.

6                 Mr. Flanagan, thank you again, you may step down, sir.

7                 THE WITNESS:   Thank you, your Honor.

8                 (Witness excused at 2:38 p.m.)

9                 THE COURT:   Assistant United States Attorney Sullivan,  
10    does the Government have any further evidence, it wished to  
11    present in this matter?

12                MR. SULLIVAN:   No, your Honor.

13                THE COURT:   Mr. Lafuente, does the defense have any  
14    evidence, you would like to present in this matter?

15                MR. LAFUENTE:   Your Honor, I'm gonna give Mr. Miller  
16    his opportunity to -- to speak if he so chooses.

17                THE COURT:   And Mr. Miller, it's -- as we've discussed  
18    before, the law is very clear, as a separate organization,  
19    Miller's Organic Farm to the extent it is a -- its own person,  
20    its own entity, you cannot represent that entity in court, at  
21    least, be represented by counsel.  You personally, however, can  
22    represent yourself in court.

23                So, what we have been permitting, is a somewhat hybrid  
24    representation when it comes to you, where Mr. Lafuente is  
25    representing your interests, but you also are permitted to



1 represent your own interests, it's unusual to permit that type  
2 of a hybrid representation, but I have been doing that. And I  
3 want to continue that only because at one point, you seemed to  
4 want to excuse Mr. Lafuente from any further representation of  
5 you.

6 I didn't do that, because I didn't think it would be  
7 in the best interest of you or the Court to not have some legal  
8 representation involved in here. But at the same time, the *quid*  
9 *pro quo* for that, is that you should be given the opportunity to  
10 -- to decide on your own as well, trial strategy, what evidence  
11 you wish to present, *et cetera*.

12 So, Mr. Lafuente has suggested at this point, it is up  
13 to you whether you'd wish to be heard. I know the Assistant  
14 United States Attorney is going to ask that you'd be cautioned  
15 regarding your Fifth Amendment rights against self-incrimination  
16 to the extent you may say something that might be incriminating  
17 and I'd be glad to do that.

18 But do you wish to be heard, sir, do you wish to be  
19 given the opportunity to present evidence or to say anything  
20 here today?

21 THE DEFENDANT: It would probably be good.

22 THE COURT: Excuse me, sir?

23 THE DEFENDANT: It would probably be good.

24 THE COURT: You -- you would like to say something?

25 THE DEFENDANT: If you don't mind.

1           THE COURT: I don't mind at all.

2           Now, again, I know, the Assistant United States  
3 Attorney is about to say, caution. I don't believe in the times  
4 that you have spoken before this Court, that you've said  
5 anything incriminating as such.

6           And what that means is, whenever you -- you speak --  
7 and I'm going to put you under oath, but you're -- whenever you  
8 speak, your words can be used against you, if in fact, you are  
9 admitting -- in essence, confessing -- to the commission of a  
10 crime. And you have an absolute right to never be forced to --  
11 to -- testify against yourself, to give testimony against  
12 yourself.

13           So, when you do make statements here in open court,  
14 those statements can be used against you in a later proceeding,  
15 whether it would be in civil contempt or more importantly, if  
16 it's a criminal contempt or if certain other actions are  
17 brought, such as perjury, *et cetera*, do you understand that?

18           THE DEFENDANT: Yes.

19           THE COURT: Okay.

20           So, sir, if you would please stand and raise your  
21 right hand, my Deputy will swear or affirm you, whichever you'd  
22 choose, do you understand?

23           THE DEFENDANT: (No verbal response.)

24           AMOS MILLER, DEFENDANT, AFFIRMED.

25           THE COURT: Thank you very much, sir. And you may be

1     seated.

2                   And -- and Mr. Lafuente, you have no problem with Mr.  
3     Miller providing whatever evidence he wishes to present here?

4                   MR. LAFUENTE:  None, whatsoever, your Honor.

5                   THE COURT:  Very well.

6                   Mr. Miller, you may proceed, sir.

7                   THE COURT:  Thank you very much.

8                   First of all, I apologize for all of the inconvenience  
9     I'm causing all -- everyone.  I -- I don't feel good in this  
10    position, I know, nobody does, either.  I'd like to express my  
11    apologies, if I have been misleading, it's not my intention to  
12    be evil.  Although the state in which there's an evil spirit,  
13    there's -- there's something good going along, he wants to be  
14    involved and maybe, that has taken place and please accept my  
15    apologies for being deceiving or making agreements and not  
16    holding up to that, I apologize for that.

17                  THE COURT:  Thank you for that, sir.

18                  THE DEFENDANT:  Ah, it's -- I'm in a -- position and  
19    you all know that, because the members are looking for things  
20    that are very important to them, special -- special -- they're  
21    that special -- ah, they have special needs, they're looking for  
22    nutrient-dense food, which is what you've talked about.

23                  And there are certain things that are hard to find and  
24    that's why we'd come to the farm.  It's hard to find that in the  
25    public store, that's why they come to the farm.  It's not that

1     our prices are cheaper. And for some reason, they like coming  
2     to the farm.

3                 And you've heard that before, so I'm not -- I'm not  
4     sure, it's not that we're competing with the store, it's  
5     actually higher but for some reason, they come to the farm. The  
6     relationship, the trust.

7                 So, I'm -- I'm in hard position and the -- the new  
8     testimony in James, it tells us, if they have special needs, if  
9     they need help, we should help them with that. There's people  
10    out there with cancer, ah, heart disease and -- and they're  
11    hoping for something and they come to me, can you help me? And  
12    they have been educated, they want good food and it's a hard  
13    position. And I have a hard time to say, no, for some reason.

14                I guess, it could be money, which I have been possibly  
15    accused of making too much money and -- and it's not fair that  
16    I'm doing that and I'm not abiding by everything, but it's --  
17    it's not all about money.

18                It's just that I'm making a living for our family, for  
19    the farmers and it's helping the people and building a trust in  
20    special needs and I would -- if it would be all for money, I  
21    would not allow my members to get thirty days to pay their  
22    invoice. If it -- if it were all about money, I would request  
23    the money to be paid upfront. I'm not sure if that makes any  
24    sense to you or not.

25                So, it's not all about money, it's the relationship,

1 the trust, the need -- it's importance of getting food out  
2 there. It's -- it's not that we're competing with the -- with  
3 the big corporations, it's just the special needs and that's my  
4 goal. And I -- I don't like to let them down on that.

5 But the time has come, where I see that I might need  
6 to be there and I just have to surrender, maybe find -- find  
7 something else. I have a hard time agreeing to -- to get a  
8 license, because it will interfere with a lot of other things,  
9 that we do, it will.

10 But I can -- I can lay that aside and then, not get a  
11 license and just stop doing the -- doing the meat. I have  
12 plenty of other things to do. And that is -- I'm going to take  
13 the position, that's just what I have to do, if -- if that's the  
14 only choice I have.

15 Ah, I don't like this intent -- or the tension that  
16 every -- causes the community, it's hard on the community, but I  
17 guess, I just have to thank the members, I'm sorry, I can't do  
18 that.

19 And about the websites, we've been educating them, the  
20 coordinators -- I don't have a computer on the farm to -- to  
21 operate our website, we've been educating, there has been a  
22 three-man board named. And if I may mention, the one name, the  
23 first name, Tom, which -- (indiscernible) has come on board and  
24 so, that's -- we'd like to help James.

25 And we have -- ah -- we are concerned about the

1 community, we're concerned about the members, they want to help  
2 us find a happy medium, but for -- for me, they're coming from  
3 -- that the meat is -- I guess, I'm just gonna have to say, I'm  
4 just gonna have to discontinue the meat, if that's -- can do  
5 with just a license for various reasons.

6 Ah, I -- I would -- I was hoping that there would be  
7 some constitutional rights -- the privileges, but maybe those  
8 don't exist in America any more. The -- the way I understand,  
9 ah, but they might not exist in this -- I don't know. I think  
10 things are just -- I don't know, I -- I want to be a farmer, not  
11 a -- a political or -- I'd just like to be a true farmer. So, I  
12 struggle with why we can't be true farmers.

13 The Bible teaches us, that we're -- we're here to take  
14 care of the animals, God created the animals and we're here to  
15 take care of them and -- and they're here for -- to fulfill our  
16 needs.

17 And I -- I -- if the USDA had the permission to  
18 continue to -- to knock down private right to contract and you'd  
19 give the permission that it's illegal, that's fine, but I'd just  
20 like to bring to your attention, if they continue that mission,  
21 they'd -- to a bad end, where the food might not be available.  
22 And Joe Biden, I think, even acknowledged that, food shortages  
23 are coming.

24 So, I don't know -- I know your concern is about  
25 keeping the food supply safe, which I respect, I -- I agree with

1     that a hundred a percent, we need to keep it safe, but which is  
2     more important, if -- if there is no food around, how -- which  
3     is more -- how can we keep it safe? So, I think, it's important  
4     that we'd have -- be allowed -- the private right to contract as  
5     many constitutional writings that, we should be allowed to do  
6     this, but maybe, you don't agree with that. And maybe, God  
7     wants the food shortage to occur.

8                 So, we'd turn our face to him, so we'd thank him more  
9     for what we have -- the Old Testament -- does say, that -- if  
10    we'd turn to his faith and we ask for his help as his servants,  
11    that (indiscernible) -- and the food will be -- so, I hope we  
12    don't have to see a future of this, I'm concerned about that,  
13    the way things are going, I'm very concerned.

14                And my customers are as well, my members, they're  
15    extremely concerned about that. And they're just -- they want  
16    to do whatever they can with it.

17                And for me, the way it looks now, I'd have to step  
18    back and -- and hopefully, God will provide one way or another.

19                The -- ah, as far as the -- the USDA license, it looks  
20    very cheap, it looks almost free to what I've been hearing in  
21    the newspaper writings, that the USDA or the Pennsylvania  
22    Department of Ag., is offering fifty thousand to a \$100,000.00  
23    for a farmer to -- for someone to get started processing meat.  
24    They did admit, though, there's shortages of -- of -- the  
25    processing time, there is a shortage.

1           And that's true, if you'd come out to the country, the  
2 farmers are looking for a market, they're looking for  
3 processors, the processors are almost booked -- booked out for a  
4 year. And even with the offer that the USDA -- or PDA --  
5 making, I haven't heard -- will do that processing. The --  
6 (indiscernible) -- are extremely hard.

7           So, with that said, I -- I'm just concerned, for me, I  
8 want to stand back, I'd like -- I don't have -- I don't want to  
9 put you in more -- any more misery. I appreciate you doing this  
10 part with me, ah, but I apologize for all the grief I've -- to  
11 everyone.

12           I would just say, let's -- let's look out for -- for  
13 the members, that invested (indiscernible). We'd need to look  
14 out, I guess, your position is -- and maybe, we'd need to look  
15 out for the corporation and that's fine, too. But the truth  
16 will rise to the top.

17           And I don't know what God has in store for us, but  
18 thank you for letting me take the time to talk to you --

19           THE COURT: Certainly, sir.

20           THE DEFENDANT: -- I appreciate it very much.

21           THE COURT: And if you don't mind, I'll respond to  
22 some of the things you've said.

23           Absolutely, you should have the right to run your  
24 business and I hope you make unlimited amounts of money, because  
25 it means, you're providing a service to those customers, who are



1     buying your food. So, this is not about you not making whatever  
2     money you can possibly make, because you're trading that --  
3     people are giving you their money because you're giving them,  
4     product that they value as -- as being as valuable as that money  
5     that they're giving to you.

6             So, the more successful your business is, it means,  
7     the better you're doing it and the better the products you're  
8     giving out to them.

9             And in no place is business less regulated than the  
10    United States and I should say that carefully, but no place is  
11    business more effective, more thriving, more able to provide the  
12    rest of the world, than the United States.

13            And you are also correct that there is a coming food  
14    shortage as reflected in the inflationary pressures on food  
15    right now, the price of food is skyrocketing.

16            The -- but the lack of slaughterhouses and the lack of  
17    -- of processors, *et cetera*, the argument has tried -- it has  
18    been made -- that it's because of the efficiencies of these  
19    large corporations forcing out the small ones, that is a very  
20    interesting argument. But it doesn't seem to have anything to  
21    do with the regulations, it seems to have to do with the  
22    efficiencies of scale, that if they have these huge processing  
23    plants, they can -- the efficiencies of those scales means, they  
24    can sell the product at a lower price. And it's very tough for  
25    the -- for the smaller processor and the smaller slaughterhouse,

1     *et cetera* to compete with that.

2                 So, that's a real issue, that's been brought to the  
3     forefront. You are a smaller processor, but a very efficient  
4     one, you just seem to have -- and this is based on my experience  
5     here -- a very unique market and a very loyal customer base.  
6     And that loyal customer base, probably, would not be overly  
7     impacted by rising prices. In other words, if you were forced  
8     to raise your prices because of rising costs, likely, your  
9     customers would remain loyal to you and continue to buy your  
10    product.

11                The other thing is, you seem to have a special ability  
12    to control your costs, because of the way you run your business,  
13    so you're not as subject to some of the costs that other  
14    producers might be subject to.

15                I -- when I heard Mr. Flanagan testify that it would  
16    be easy for you to come into compliance, it just raised, again,  
17    in my mind, why is this so hard? Nobody wants you to stop doing  
18    what you do, you just need to come in to compliance. And to  
19    you, it seems to be, this very large, insurmountable, almost  
20    fatal to your business type of requirement.

21                I heard Mr. Flanagan say, it would not be that hard  
22    and in fact, it might even increase your business, increase the  
23    ability to provide product to your customers and allow others to  
24    use it to have a compliant slaughterhouse would not be that  
25    hard.

1           When I hear him say that, you don't believe that, I  
2   don't think, because you think this is fatal, that the only  
3   option, you can't go that way and become compliant, so you have  
4   to just shut down.

5           And that means, all of this time, and all of this  
6   effort, we've put in over all of these years, ends in for  
7   naught. It ends in not being able to achieve our ultimate  
8   purpose, which was to allow you to operate your business, just  
9   make sure it was in compliance, so that the -- well, you'd meet  
10  both interests, your interest as an American, as a -- as a  
11  farmer, as a person, who wants to provide your product to your  
12  customers.

13          And the Government's limited interest -- the  
14  Government has a very limited interest in your business, that is  
15  food safety and there may be other regulations having to do with  
16  emissions from trucks and things like that, but the issue that  
17  we're here right now, is -- it is focused almost entirely on  
18  food safety, proper packaging, proper notifying your customers  
19  of what you're selling them, *et cetera*.

20          Rules and regulations that, yes, that tended increase  
21  over time rather than decrease, it's rare you see the Government  
22  decrease rules and regulations or requirements in the food-  
23  safety area, although I'm sure Mr. Flanagan could testify about  
24  that much more accurately than I could.

25          So, I hear Mr. Flanagan testify and he says, you

1 haven't been in compliance, you haven't seemed to try at all.  
2 You did for a short period of time, when you used another  
3 processor. He says, you could come in to compliance easily.

4 And I assume by easily, it still would cost you money,  
5 but look what it's costing you here. I don't know how much  
6 money, it would cost you, but it seems that you are successful  
7 enough that the cost would be a reasonable investment for what  
8 your ultimate return would be based on that investment.

9 So, investment in becoming compliant would, likely,  
10 Number 1, not interfere with your ability to sell the very  
11 product, you want to sell.

12 Number 2, making it more profitable.

13 And, No. 3, let you enjoy your business rather than  
14 have this hanging over your head, the way it has for years now.

15 And that just the idea of removing that stress, 'cause  
16 I think, that's what you're doing with a lot of this -- this  
17 constant stress, all these people having to be here today, all  
18 because we keep, arguably, caving in.

19 I know, you've got a lot of people, who would look at  
20 this and say, why has the Government not done more to require  
21 Miller's Organic Farm to become compliant with the law, because  
22 we've always been focusing on allowing you to conduct your very  
23 unique business, but still bring you in to compliance. So,  
24 we've let it go for a long time -- we've let it go for a long  
25 time.

1           So, you would think, when you say to me, forget it,  
2   I'm -- I don't want to sell meat anymore, I don't want to do any  
3   slaughtering, *et cetera*, I would say, great, finally, this case  
4   is over, an injunction is entered, pay your money and we're out  
5   of here.

6           But that was never the intent, so I'm not -- I'm not  
7   -- while I'm encouraged with your willingness to want to be in  
8   compliance, even if it means, shutting down, that never was our  
9   goal. So, it doesn't make me feel as though this is -- this is  
10   a great answer to this problem. And so, I don't know whether  
11   you really want -- want to or that you believe you have to shut  
12   down, I just don't know.

13           But I will tell you what I am going to do, I am going  
14   to first allow, Mr. Lafuente to ask you any questions he wishes  
15   to ask you. And then, I'll ask the Assistant United States  
16   Attorney and then, see what you want to do, fair?

17           (No verbal response at 2:57 p.m.)

18           THE COURT: Mr. Lafuente, do you have any client --  
19   any questions for your client?

20           MR. LAFUENTE: A few. Can --

21           THE COURT: We can hear you, you may proceed, sir.

22           MR. LAFUENTE: Okay, thank you.

23                               DIRECT EXAMINATION

24   BY MR. LAFUENTE:

25   Q.   Mr. Miller, now -- you said some very interesting -- I've

1    been on this case for -- for a long time now, right?

2    A.    True, yes.

3    Q.    And I've actually gotten to meet a lot of your -- your  
4    members and we've -- we've had lots of conference calls with all  
5    of them and we all know, that they really value your product,  
6    right?

7    A.    Yes, yes, sir.

8    Q.    I mean, it's -- and it's very important to them, it's --  
9    some of these people, it's medicine for them, right?

10   A.    Yes, sir.

11   Q.    And then that's your -- your big motivation is that you  
12   really like, -- you were just now quoting your -- your Biblical  
13   verse, that you feel that this is, you know, a religious  
14   prerogative, you -- you're duty bound to help these people,  
15   because they need you, right?

16   A.    That's right.

17   Q.    Okay.

18               Now, let me ask you this -- I'm going to ask you a  
19   tough question here.

20               Part of these regulations, was starting to keep  
21   records, right --

22   A.    Yes.

23   Q.    -- you understand that, right?

24   A.    Yes.

25   Q.    And you haven't done that, right?

1 A. Not to the degree that they would like.

2 Q. Right.

3 And here's -- here's -- my question is, the records,  
4 themselves, they don't assess, the density of the -- they don't  
5 assess, the food, itself, right?

6 A. They what?

7 Q. And do you understand that the reason for those records, is  
8 so that the Government -- the Government has a job to do, they  
9 have to make sure, that -- that they protect the public against  
10 people putting food out there, that can harm them, right?

11 A. That's right, I think, it's a --

12 Q. You understand --

13 A. Yeah, and I think, it's important --

14 Q. Right.

15 A. -- I think, it's important that the USDA builds a good  
16 reputation, so they would go to them, rather than to the farm.

17 Q. Exactly.

18 Now -- and -- and you and I both -- and nobody in this  
19 courtroom has accused you of hurt -- hurting anybody, you  
20 understand that, right?

21 A. That's right, yes.

22 Q. Because you provide a good product --

23 A. Yes.

24 Q. -- right? A necessary product?

25 A. Correct.

1 Q. Okay.

2 Now, here's my point, Amos, your product is so  
3 important to other people, that it doesn't take a whole lot to  
4 put records together, don't you think that it's important,  
5 valuable --

6 A. Yes.

7 Q. -- it's important to get to these people, that you can keep  
8 those records, you can come in to compliance because there is a  
9 way for you to do it, Amos, you've done it before, do you  
10 remember that?

11 A. Yes.

12 Q. What's the problem now, I mean, all you'll -- the last time  
13 that we did this, you were able to put the records together, you  
14 were able to sell that product, you liquidated it and we got  
15 past it, right?

16 A. Right.

17 If it goes to the Meat Division, then we'd have to put  
18 off with lots of other things, that the members want to as well,  
19 so that's the stickler. We went through that before.

20 Q. But -- and I have not explained to you, that there is  
21 nothing stopping -- the PDA or anyone else -- from coming onto  
22 your farm and shutting down the rest of your business right now,  
23 do you understand that?

24 A. Sure.

25 Q. But they haven't done that, have they?



1 A. That's right.

2 Well, they've been in there trying to --

3 Q. You said --

4 A. -- I talked to them about the whole situation. I have  
5 talked to them about the whole situation and --

6 Q. But --

7 A. -- they are aware of it.

8 Q. -- but you're still operating, sir, isn't that right?

9 A. The what?

10 Q. You're still operating, they haven't shut you down?

11 A. That's good, that's correct.

12 Q. Yeah and that's -- that's my point, Mr. Miller, isn't it  
13 true -- I understand that maybe, you believe, that if you'd come  
14 in to compliance and if you'd play ball with the Government's  
15 way, I know, you believe that that's gonna shut your business  
16 down, right?

17 A. Well, I heard from one of the other court hearings and I  
18 don't want to accuse Judge Smith, but he said, there's more  
19 rules coming down the road, so that makes it more discouraging  
20 than ever to even get a license.

21 So, I don't know if farmers are appreciated or not,  
22 but I don't think they will be till the future has arrived and I  
23 -- I wish we wouldn't have to see that.

24 Q. Okay, but -- but Mr. Miller, here's my -- I guess, my point  
25 is, you haven't even tried to apply for the license, right?

1 A. I've -- I've read it thoroughly, I've discussed it, I've  
2 talked through it, I -- yes, I -- I studied them, ah, so we've  
3 been there.

4 It's just that when --

5 Q. Well --

6 A. -- when you sign in, ah, you're -- you give them the  
7 little finger, they'll take the whole hand. And that's --

8 Q. Okay, but hold on a second, Mr. Miller.

9 A. -- that's the --

10 Q. You're speculating right there, okay, you don't know that  
11 for a fact, do you?

12 A. Ah --

13 Q. I mean, there are other Amish farmers, who do -- who are  
14 federally inspected, for instance, Belmont, isn't that right?

15 A. Well, there have been many happenings and many things that  
16 happened that did not work out for guys.

17 And even other organizations were put under the USDA,  
18 came in and they're out of business now, so I'm not sure how  
19 long they'd want to continue this, I --- I think it's important  
20 that --

21 Q. And you --

22 A. -- it's important that the -- someone goes out there and  
23 educates people how to plant seed, how to water their plants,  
24 ah, is anyone -- the future, I think, it would be more wise for  
25 the USDA to go to the top skyscrapers, where people live and

1 bring some top soil on top of their roofs, you would have  
2 something to eat in the future, because Joe Biden, already -- ah  
3 -- mentioned and I think, it's important that they support small  
4 farms, rather than put them out of business, regularly.

5 And there's plenty of --

6 Q. But it --

7 A. -- there's plenty of constitutional right --

8 Q. -- the --

9 A. -- there's plenty of constitutional rights that we -- we  
10 should be allowed to be farmers, yes?

11 Q. Well, but here's -- but the -- Mr. Miller, they're not  
12 violating your constitutional rights, they're giving you every  
13 opportunity to -- to provide your product, do you not -- do you  
14 not see that?

15 A. (No verbal response.)

16 Q. They want you to produce your product, they want you to  
17 continue to produce, because you have that right --

18 A. Well, you --

19 Q. -- do you not understand that?

20 A. -- you have to take the whole picture, Steve, I guess, you  
21 -- you and I need to -- ah -- talk to our customers, I was  
22 trying to get ahold of you --

23 Q. Well --

24 A. -- for the past week and I haven't had any response, I'm  
25 not sure, if you got my messages or my faxes --

1 Q. Yeah, I -- you and I have been playing phone tag, because  
2 I've been calling you back, too and I understand that.

3 A. We'd need to have a personal --

4 Q. But you --

5 A. -- conversation about this.

6 Q. But here's -- here's my -- here's my point, Amos.

7 You know, if they wanted to put you out of business,  
8 they could have done it five years ago and they -- they have  
9 not, they have bent over backwards, because they want to see you  
10 succeed, okay.

11 So, it's not true that they're violating your  
12 constitutional rights or that they're invading your private  
13 right of contact.

14 All they want you to do, is to come in to compliance  
15 and that means, do things, like, keep some proper records, so  
16 that way, in case somebody does get sick, they'd have a way to  
17 trace it, do -- do you not understand that?

18 A. Is there a private right to contact?

19 Q. Yeah, well, you're -- you're doing it now, aren't you?

20 A. (No verbal response.)

21 Q. I just -- Mr. Miller, I -- I know and I've known you for  
22 many years and you -- you are under a lot of pressure, are you  
23 knot?

24 A. Yes.

25 Q. You get a lot of pressure from all kinds of people and from

1 every different direction, I've seen it, isn't that right?

2 A. That's right.

3 Q. You know --

4 A. And -- and our members want all the food that we have, not  
5 just some of it, so if we don't comply, there's gonna be a big  
6 list of things that would have to come --

7 Q. But you --

8 A. -- off, so --

9 Q. And --

10 A. -- so, they'd have to support --

11 Q. -- but isn't it --

12 A. -- that, getting the farm's ID, they've supporting the farm  
13 and they spend a lot of -- of their earned -- hard earned money  
14 to support the farm and if they see a lot of our items have to  
15 come off the list, they will not be happy.

16 Q. Okay. But -- but -- let me -- let me ask it this way:

17 Is it true that your members just don't want anything  
18 that says, federally inspected on it, is that a true statement?

19 A. What's that?

20 Q. Do your members, no matter what -- even if it's coming from  
21 your farm or not, you members' big priority is that they don't  
22 want something that says that it's federally inspected, is that  
23 correct?

24 A. Yeah.

25 Their reputation is not the best, that's why.

1 Q. Okay.

2 And so, that's the reason why you don't want to be the  
3 license, is that correct?

4 A. That's -- that's right.

5 Q. Even though you understand that with the federally-  
6 inspected license, you'd still be able to produce meat, the way  
7 that you produce it?

8 A. Ah, not necessarily.

9 Q. Well, how --

10 A. Maybe -- maybe --

11 Q. -- and what --

12 A. -- maybe, the meat but not the other items.

13 So, there's other things for me to do --

14 Q. You could --

15 A. -- I don't have to be a farmer, I don't have to do this,  
16 there is many other things I can do.

17 Q. Okay.

18 MR. LAFUENTE: I have no further questions, your Honor.

19 THE COURT: Thank you very much.

20 Assistant United States Attorney Sullivan, you may  
21 question Mr. Miller.

22 MR. SULLIVAN: Your Honor, if I could address my  
23 initial comments to Mr. Lafuente?

24 THE COURT: Certainly, sir.

25 MR. SULLIVAN: Mr. Lafuente, as you know, I am not --

1 I'm saying this to Mr. Miller in this courtroom as well -- I am  
2 not a criminal AUSA, I'm in the Civil Division, if any sort of  
3 criminal proceeding were to start here, I would not be on that  
4 criminal matter. And I just want to mention that in no way by  
5 citing the statutes am I threatening prosecution in any way, I  
6 would not be involved in that process.

7 But I'd just want to note that under the Federal Meat  
8 Inspection Act and the Poultry Products Inspection Act, there is  
9 strict liability and misdemeanor liability for prohibited act  
10 and we've talked about, you know, moving detained product, *et*  
11 *cetera*, that include those prohibited acts similar to under the  
12 Federal Drug and Cosmetics Act, it includes things, like, mis-  
13 branding and (indiscernible), of course. And then, you know,  
14 there's also felony liability if there is an intent as well.

15 There is also, of course, 18 USC, 4013, which says, a  
16 court of the United States shall have the power to punish by  
17 fine or imprisonment or both at its discretion, such contempt of  
18 its authority and none other as, three, disobedience or  
19 resistance to its lawful writ, process, order, rule decree or  
20 comment.

21 And then, there is also a -- a statute, the one big  
22 criminal case I've had with a client conspiracy case against a  
23 medical-device company under 18 USC, Section 371 and that says  
24 that:

25 if two or more persons conspire to defraud the United

1 States or any agencies thereof in any manner or for any  
2 purpose and one or more of such persons do any act or  
3 affect the object of the conspiracy, each shall be fined  
4 under this title or imprisoned, not more than five years  
5 or both. If, however, the commissions of which is the  
6 object of the conspiracy is a misdemeanor only, the  
7 punishment for such conspiracy shall not exceed the  
8 maximum punishment provided for such misdemeanor.

9 So, I'm just reciting those statutes because before I  
10 ask any questions, I just wanted to give some effect to my  
11 additional, sort of, Fifth Amendment warning to Mr. Miller. And  
12 give you an opportunity to counsel him on the record or off the  
13 record as to whether to answer any questions that I may ask.

14 So, as -- I just wanted you to weigh in on that before  
15 I -- I give him that warning.

16 MR. LAFUENTE: Well, I'll allow him to have that  
17 warning, it's -- it's important. But I do want -- he's going to  
18 make his own decision as well.

19 MR. SULLIVAN: Okay.

20 CROSS-EXAMINATION

21 BY MR. SULLIVAN:

22 Q. Mr. Miller, just as the judge stated, you have the right,  
23 even though I'm a civil AUSA, there is -- there is always the  
24 possibility that there could be criminal prosecution -- you have  
25 the right not to answer any of my questions. Everything that's



1 being stated today is being transcribed by a court reporter on  
2 the record and could be used in a later proceeding. So, I will  
3 leave it up to you whether you'd want to answer my questions or  
4 not, but I have several questions, I would pose to you, unless  
5 you don't wish to answer them.

6 Ah, my first question is, you still own and operate  
7 Miller's Organic Farm?

8 A. (No verbal response.)

9 MR. LAFUENTE: Ah, hold -- hold on second. I didn't  
10 hear his response.

11 MR. SULLIVAN: He did not respond.

12 THE COURT: But, I think, to the earlier question --

13 MR. LAFUENTE: Ah, I didn't --

14 THE COURT: -- you do wish to answer the questions --  
15 you do wish to --

16 THE WITNESS: I --

17 THE COURT: -- answer the questions of the Assistant  
18 United States Attorney?

19 THE WITNESS: Probably, not.

20 THE COURT: Probably not?

21 THE WITNESS: Yes.

22 THE COURT: All right.

23 That's the response -- the response was, probably not,  
24 so, Assistant United States Attorney Sullivan is going to ask  
25 the question and allow Mr. Miller to give whatever response, he

1 wishes to.

2 MR. SULLIVAN: Well, if Mr. Miller is telling me  
3 definitely, he's not going to answer any question I ask --

4 THE COURT: Well, he probably doesn't --

5 MR. SULLIVAN: -- well, I'll -- I'll still put it on  
6 the record for adverse intent purpose -- purposes, all right.

7 BY MR. SULLIVAN:

8 Q. Mr. Miller, do you still own and operate Miller's Organic  
9 Farm?

10 A. I do not wish to answer any questions of --

11 Q. Mr. Miller, are you fam -- you've cited the Book of James,  
12 are you aware that, the author in that book refers not just to  
13 words, but to actions and the importance of actions and words?

14 A. I didn't understand the general question at this period of  
15 time.

16 Q. And does the author of that book refer to the importance of  
17 community, not just of rights, but of community and our duties  
18 to one another?

19 A. (No verbal response.)

20 Q. No answer.

21 Mr. Miller, is your wife, Rebecca, a co-owner of  
22 Miller's Organic Farm with you?

23 A. (No verbal response.)

24 Q. Mr. Miller has not answered.

25 Mr. Miller, who pays the taxes for the Miller's

1 Organic Farm business to the IRS for the year, 2021?

2 A. (No verbal response.)

3 Q. No answer.

4 Mr. Miller, if you were to cease doing business as  
5 Miller's Organic Farm, would you be transferring ownership to  
6 another group of your meat and poultry establishment?

7 A. (No verbal response.)

8 Q. No answer.

9 Mr. Miller, if you were to cease doing business as  
10 Miller's Organic Farm, would you re -- continue doing business  
11 in the meat and poultry sector under another name?

12 A. (No verbal response.)

13 Q. No answer.

14 Mr. Miller, are you associated with Sunrise View Farm,  
15 P.O. Box 68, Bird-in-Hand, Pennsylvania?

16 A (No verbal response.)

17 Q. No answer.

18 Mr. Miller, what limited liability companies or  
19 corporations and alter egos, do you do business under?

20 A. (No verbal response.)

21 Q. No answer.

22 Mr. Miller, do you do business under the name, AB  
23 Farm, LLC?

24 A. (No verbal response.)

25 Q. No answer.

1                   Mr. Miller, was that business formed in 2020?

2    A.    (No verbal response.)

3    Q.    No answer.

4                   Mr. Miller, do you do business under Miller Camel  
5    Farm, LLC?

6    A.    (No verbal response.)

7    Q.    No answer.

8                   Mr. Miller, was that business formed in 2020?

9    A.    (No verbal response.)

10   Q.    No answer.

11                  Mr. Miller, do you do business under the name, Miller  
12   Creek Buffalo?

13   A.    (No verbal response.)

14   Q.    No answer.

15                  Mr. Miller, does each of those businesses have its own  
16   checking account?

17   A.    (No verbal response.)

18   Q.    No answer.

19                  Mr. Miller, what activity has Bird-in-Hand Meats  
20   engaged in since February of 2022?

21   A.    (No verbal response.)

22   Q.    No answer.

23                  Mr. Miller, do you still own the property -- the farm  
24   -- at 672 Mill Creek School Road in Bird-in-hand, Pennsylvania?

25   A.    (No verbal response.)

1 Q. No answer.

2 Mr. Miller, who is the tenant or are the tenants, if  
3 any, at the 672 property?

4 A. (No verbal response.)

5 Q. No answer.

6 Mr. Miller, do you have any current line of credit?

7 A. (No verbal response.)

8 Q. No answer.

9 Mr. Miller, have you moved any of the previously USDA  
10 detained or U.S. Marshal Service arrested meat or poultry  
11 products at any of your properties?

12 A. (No verbal response.)

13 Q. No answer.

14 Mr. Miller, what happened to the approximate -- 1500  
15 pounds of products that FSIS/USDA detained on the 648 property  
16 and the 672 property with bright-red detainer tags on September  
17 8<sup>th</sup>, 2021?

18 A. (No verbal response.)

19 Q. No answer.

20 Have you sold or distributed any of that product?

21 A. (No verbal response.)

22 Q. No answer.

23 Have you done anything with the detainer tags on those  
24 products?

25 A. (No verbal response.)

1 Q. No answer.

2 Mr. Miller, please tell us about the three-member  
3 board of governors that you referred to in your recent  
4 submission to the Court?

5 A. (No verbal response.)

6 Q. No answer.

7 Can you tell us, who the members are of that board?

8 A. (No verbal response.)

9 Q. No answer.

10 Can you tell us what the functions are of those  
11 individuals?

12 A. (No verbal response.)

13 Q. No answer.

14 Do those individuals have any independent authority to  
15 make any decisions or are they just counselors to you?

16 A. (No verbal response.)

17 Q. No answer.

18 Do any of those individuals have any specialization in  
19 the law or compliance?

20 A. (No verbal response.)

21 Q. No answer.

22 Mr. Miller, would you be willing to put a temporary  
23 manager in place at Miller's Organic Farm to manage the meat and  
24 poultry operation?

25 A. (No verbal response.)

1 Q. No answer.

2 Mr. Miller, if you were to shut down your meat and  
3 poultry operations at Miller's Organic Farm, how do you propose  
4 that the Government verify that you have, in fact, shut down  
5 those operations?

6 A. (No verbal response.)

7 Q. Mr. Miller, do you have any issue -- no answer -- Mr.  
8 Miller, do you have any issue with Mr. Lapsley continuing in his  
9 role as the Court's appointed expert under Federal Rule of  
10 Evidence 706 in this case?

11 A. (No verbal response.)

12 Q. No answer.

13 Mr. Miller, do you dispute any of the testimony that  
14 Mr. Lapsley or Mr. Flanagan gave today about your denials of  
15 access to them on the occasions that they identified?

16 A. (No verbal response.)

17 Q. No answer.

18 Mr. Miller, what has happened with the good-faith  
19 \$50,000.00 payment that you had promised to make to the Court's  
20 registry before this hearing?

21 A. (No verbal response.)

22 Q. No answer.

23 (Pause at 3:15 p.m.)

24 MR. SULLIVAN: Your Honor, I have no further questions  
25 at this time.

1           THE COURT: Well, but the one answer, I do need an  
2 answer to, in my original order of 10, March, I had ordered that  
3 you pay \$250,000.00 in a civil contempt sanctions fine and  
4 \$55,065.72 to reimburse FSIS -- FSIS - for its costs of  
5 investigation.

6           And you had, subsequent to that time, you had  
7 requested additional time to pay those funds, which I granted,  
8 but it was provided that you made a good-faith payment of  
9 \$50,000.00 within one week, that one week has come and gone, it  
10 was Friday, March 18<sup>th</sup> that was due.

11           But that fifty thousand not paid in to court and I'll  
12 tell you, why that becomes a real issue here, it's because all  
13 that money you paid in, was going to be used to pay the costs of  
14 investigation and Mr. Lapsley's fees and then, whatever was left  
15 over, was going to be returned back to you.

16           Well, if we don't have that money and Mr. Lapsley  
17 works, he submits an invoice, we've got no funds within which to  
18 pay him. So, two questions:

19           One is, where is that \$50,000.00?

20           And the second is, how much more time do you need to  
21 make any additional payments?

22           THE DEFENDANT: Well, Steve -- we went back and forth  
23 with Steve, first of all, Friday came and I wasn't quite sure  
24 where to send this money to.

25           THE COURT: Okay.



1           THE DEFENDANT: Ah, so Steven was -- went back and  
2   forth and they finally gave an address or gave me an option send  
3   it to Philadelphia or to Steven and Steven wired it to their --  
4   their -- ah, I sent -- I sent Steve a check, a \$50,000.00 -- ah  
5   -- three-day express.

6           And I guess, it happened to be the wrong address on  
7   one of his forms from maybe, years -- I'm not sure, how I got  
8   that address, but it was on there, so it went to that address  
9   and it was signed for and I -- I was trying to get ahold of  
10   Steve about that, if -- if he can --

11          MR. LAFUENTE: So, do you -- I can verify that, he did  
12   -- Mr. Miller sent me a copy of the -- of the tracking number  
13   with the FedEx, it was sent FedEx, but he sent it to my prior  
14   residence, which I don't know how he got that address, but he  
15   sent it to my previous residence, I don't live there anymore.

16          Ah, I asked him to cancel that check and send me  
17   another one, he insisted that I'd go by that house and retrieve  
18   the one that he already sent which I went ahead and tried to do,  
19   but I'm not -- but nobody -- nobody answered. And that's where  
20   we are.

21          THE COURT: Okay.

22          THE DEFENDANT: Yeah, I didn't -- I didn't know that  
23   you went over there, that's the answer I was waiting for, that  
24   you tried to get over there and I haven't -- I was trying all  
25   week to get ahold of you.

1           MR. LAFUENTE: Yeah, I -- and that's what I was  
2   telling you, you know, the better thing to do -- the more  
3   expedient to do was to cancel the check and issue another one.

4           THE DEFENDANT: Yeah, well, I -- I can do that, I just  
5   wanted to confirm, that you did try to go there and retrieve it  
6   and you were not able to find anything, is that right?

7           MR. LAFUENTE: Correct.

8           Well, the -- they didn't answer, nobody was home when  
9   I went there.

10          THE DEFENDANT: Yeah.

11          Well, I can -- I can send another one, I just need --  
12   the address and I'll send it overnight, I -- I want -- I want  
13   this satisfied, because the check is --

14          MR. LAFUENTE: And -- and -- I sent you that and I  
15   told you that my address is on my letterhead and the fact is  
16   that, I think, it's at the top, it's on the letterhead.

17          THE DEFENDANT: Okay.

18          Well, just make sure it's --

19          MR. LAFUENTE: It's on --

20          THE DEFENDANT: -- make sure they fax that to me, so I  
21   have it correct, again, I am not sure where that paper got to,  
22   but I want to make sure that gets satisfied. I appreciate you  
23   giving me the time to do that fifty thousand, I really do.

24          THE COURT: Certainly, sir, all right.

25          Here is the way, it looks like the way forward to me,

1 is that Mr. Miller has been trying to consult with Mr. Lafuente,  
2 but he has been unsuccessful. It looks like that \$50,000.00,  
3 attempts were being made to get that put into the Court's  
4 registry from which we can pay out amounts -- the amounts that  
5 are due.

6 And it sounds like, if Mr. Miller is going to be  
7 consulting with Mr. Lafuente, Mr. Lafuente would be able to  
8 consult with Assistant United States Attorney Sullivan about  
9 exactly what Mr. Miller desires to do here, whether he desires  
10 to shut down, whether he desires to get the permit, how long it  
11 would take, to what extent can Mr. Lapsley assist with that, to  
12 what extent can Mr. Flanagan assist him with that.

13 I know everyone is -- is now very skidderish about the  
14 way forward only because it has not been overly successful,  
15 except for a very brief times when we've been able to use the  
16 different slaughterhouse, *et cetera*.

17 We've got two cases outstanding, we've got to resolve  
18 the other one with the arrested product and so, any discussions  
19 should include both of that.

20 What I would suggest is that, we schedule a telephone  
21 conference for a week from Friday, by that time, the \$50,000.00  
22 should be in the Court's registry, by that time, Mr. Lafuente  
23 should have been able to consult with Mr. Miller and then,  
24 consult with the Assistant United States Attorney Sullivan to  
25 see if some amicable way forward can be achieved and if it

1 cannot be, then we'll decide the way forward based on the -- the  
2 positions of the respective parties.

3 Mr. Lafuente, does that sound like a way forward to  
4 you?

5 MR. LAFUENTE: Yes, sir.

6 I -- I like that a --

7 THE COURT: Mr. Miller, would that work for you?

8 THE DEFENDANT: Yes.

9 THE COURT: And Assistant United States Attorney  
10 Sullivan, do you believe that would work for the Government?

11 MR. SULLIVAN: Your Honor, I -- I think, our position  
12 is that, you know, we can make any additional argument or  
13 suggest a way forward at that point, certainly.

14 But that by that point, the \$55,065.72 reimbursing  
15 FSIS's costs for this activity many months ago, should also be  
16 paid and apparently, there is a good deal of money even in the  
17 Go-Fund-Me sites, but Mr. Miller --

18 THE COURT: Mr. Miller, could you -- could you pay by  
19 next Friday, the -- both the \$55,065.72 plus that fifty thousand  
20 dollars in -- a down payment on that civil contempt fine, which  
21 would be a total of -- you've probably done it in your head  
22 already.

23 (Pause at 3:21 p.m.)

24 THE COURT: One hundred and five thousand dollars --  
25 \$105,065.72, can you have that paid by next Friday?

1 THE DEFENDANT: It would be very difficult.

2 THE COURT: Remember, you have in the Go-Fund-Me  
3 accounts, \$160,000.00.

4 THE DEFENDANT: If that would all be available, it has  
5 a lot of the costs and attorneys, like, Paul said, there's a lot  
6 of different costs involved. Chris Carusone took a lot of that,  
7 so -- not all of that is available to be honest.

8 And if -- if push comes to shove, I can scratch --  
9 scratch my surplus.

10 THE COURT: That would be a very good-faith gesture to  
11 get that money in, I am going to order it, but it would be a  
12 very good-faith gesture to get that in by next -- not this  
13 coming Friday -- but the following Friday.

14 And that also give you time to -- to discuss with Mr.  
15 Lafuente, what you'll want to do here, so he can discuss with  
16 the Assistant United States Attorney, what -- what you want.  
17 The United States -- the Assistant United States Attorney will  
18 know what they want, maybe, the two are not that far apart.  
19 But certainly, the one thing we do know, is we've got  
20 investigation costs and fees that need to be paid. So, that  
21 \$105,065.72 is very important.

22 MR. SULLIVAN: Your Honor, I would just add that that  
23 goes to two different locations, we've provided wiring  
24 instructions -- payment instruction -- to Mr. Lafuente and Mr.  
25 Flanagan delivered those to Mr. Miller, but the \$55,065.72 gets

1   paid to the -- to my office and then that goes to the treasury  
2   to reimburse FSIS. The \$50,000.00 would go to the Court's  
3   registry, so there are two different locations.

4           THE COURT: And Mr. Lafuente, you're -- you're aware  
5   of that?

6           MR. LAFUENTE: Yes, sir.

7           THE COURT: And you can assist Mr. Miller in that  
8   respect?

9           MR. LAFUENTE: Certainly.

10          THE COURT: Okay.

11          Mr. Miller, do you have any questions for me?

12          THE DEFENDANT: I just -- my members are wondering  
13   when this inventory can be moved back to the -- 'cause they're  
14   anxious for their food and I just need to educate or I need to  
15   communicate with them, 'cause I'm under -- I don't know, the  
16   whole nine yards about ten days to release after the inventory  
17   -- ah, is completed, how many days they have to release it, I  
18   don't know that.

19                So, I just need to have communication with my members,  
20   they're anxious for this meat that's in inventory. I'd just  
21   like to have a clarification on that.

22          THE COURT: Well, do make sure Mr. Lafuente is aware  
23   of that concern you have, so that he can address that concern  
24   with the Assistant United States Attorney. I don't know the  
25   answer to that.

1           I know that, Mr. Lapsley, you've done an inventory of  
2   what's on the premises now, you're talking about inventory  
3   that's been moved off the premises?

4           THE DEFENDANT: No, the inventory that, George Lapsley  
5   took, I think it was ten days to have it released after -- after  
6   invent -- or approved, I don't know, I'd just like to have a  
7   clarification on that.

8           THE COURT: All right.

9           I don't have that clarification, I don't know if  
10   people have it available now, or whether that would have to be  
11   discussed.

12          MR. SULLIVAN: Well, we -- we have not received an  
13   inventory from Mr. Lapsley yet and that -- that then, triggers  
14   the next step, I believe, once we get the inventory from Mr.  
15   Lapsley.

16          (Pause at 3:25 p.m.)

17          MR. SULLIVAN: Mr. Safian from FSIS is actually, on  
18   the phone, apparently and I -- if your Honor would like him to  
19   weigh in briefly --

20          THE COURT: Certainly.

21          MR. SULLIVAN: -- I would like him to do so.

22          Mr. Safian, are you on the line?

23          MR. SAFIAN: Yes, this is Scott.

24

25          MR. SULLIVAN: And your name is Scott Safian, S-a-f-i-

1 a-n, right?

2 MR. SAFIAN: That's correct.

3 MR. SULLIVAN: And your position, again, is with  
4 FSIS?

5 MR. SAFIAN: I am the Director of the Enforcement  
6 Operation stuff.

7 MR. SULLIVAN: And you've testified in this case  
8 previously, right?

9 MR. SAFIAN: Yes.

10 MR. SULLIVAN: Would you, kindly share your views on  
11 what Mr. Miller is proposing -- or what he is asking about?

12 MR. SAFIAN: Ah, I -- as far as the fines, if there is  
13 a need to provide a timeline, I think that's acceptable. Our --  
14 our concern, still, I think remains the whereabouts of the  
15 detained product.

16 It became fairly clear to us from Mr. Lapsley's  
17 testimony and the information we received previously, that that  
18 product has, either, been moved or the whereabouts are unknown  
19 and we're still concerned about getting access to verify that.  
20 And also with respect to verifying the inventory --

21 MR. SULLIVAN: Would you like --

22 MR. SAFIAN: -- and --

23 MR. SULLIVAN: I'm sorry, would you be requesting the  
24 Judge to order that you'd be allowed to access the farm, before  
25 the hearing in two weeks to determine the location of the



1     detained product?

2                   MR. SAFIAN:  Yeah, I -- I think that's essential to  
3     us.

4                   And -- and to verify the inventory, the way the order  
5     was created, Mr. Lapsley was supposed to create with Mr. Miller,  
6     the inventory.  Once we have those records, we'll do a -- a  
7     paper review, which shouldn't take, you know, more than a day or  
8     two to sort of make sure that it was drafted in accordance to  
9     the order.  I'm fairly confident that Mr. Lapsley followed that.

10                  But then our plan would be to go on site, you know,  
11     verify the inventory yourself and then, be assured that it could  
12     be released for sale.

13                  But again, that detained product has been a concern  
14     because -- as I believe, Mr. Flanagan testified, we did find  
15     some product labeled in the same manner as product was returned  
16     in commerce.

17                  MR. SULLIVAN:  So, does your ability to meaningfully,  
18     you know, counsel me on FSIS's position before our next call  
19     with the Judge, depend on whether Mr. Lapsley is able to get out  
20     the written inventory before then and you're able to go to the  
21     site to start verifying that?

22                  MR. SAFIAN:  Yeah, that -- but that's essential to us.

23                  And again, particularly, that -- that detained  
24     product, I mean that as Mr. Flanagan testified, that just really  
25     hasn't happened before.  We've had some instances where product

1 has been moved, you know, due to perhaps, some confusion and  
2 misunderstanding by the owners. But never moved offsite, never  
3 sold, never sold, never no matter, where we haven't been able to  
4 identify it and be sure that it's still under proper detention.

5 And so, that -- that is a big concern for us.

6 MR. SULLIVAN: And I'll ask the Judge, if he would be  
7 willing to ask Mr. Lapsley about the timing of this inventory,  
8 but before that, do you have anything else you'd want to add?

9 MR. SAFIAN: No, that's -- that's really our main  
10 concern, I appreciate that.

11 MR. SULLIVAN: And, so, your Honor, I would just  
12 wonder if your Honor might be able to ask Mr. Lapsley when he  
13 believes, he'll have an inventory to the parties?

14 THE COURT: So, my understanding is, in answer to Mr.  
15 Miller's question as to the release of inventory, if Mr. Lapsley  
16 gets the inventory that he's done to Mr. Safian and he has to go  
17 out and inspect the product, himself and that then, the product  
18 could be released?

19 MR. SULLIVAN: Ah, I -- I believe -- and Mr. Safian,  
20 correct me, if I'm wrong -- that once we'd get the inventory,  
21 then FSIS has a right under the Judge's order and under the law,  
22 to go in and to verify that inventory. And then, FSIS makes the  
23 determination about what the appropriate next step is for the  
24 inventory, right?

25 MR. SAFIAN: Right.

1           Mr. Flanagan -- yes -- yes, that is correct.

2           Mr. Flanagan or another investigator would go out  
3   onsite and then, yeah. The idea was to allow that product then  
4   to be sold by Mr. Miller. Of course, there were some record-  
5   keeping requirements, I don't know whether that is going to be  
6   met, I guess, we can worry about that depending on where --  
7   where things are going to go with Miller going forward.

8           THE COURT: All right.

9           MR. SULLIVAN: And would you be making a determination  
10   whether the product is still in good condition and appropriate  
11   for sale?

12          MR. SAFIAN: Yeah, there would be some, our -- our  
13   understanding is, that it's largely almost all frozen product,  
14   so we don't expect any concerns with -- with that issue, but  
15   yeah, that would be something that they would check.

16          THE COURT: And Mr. Lapsley, how long would it take  
17   you to get the written inventory to Mr. Safian?

18          MR. LAPSLEY: End of business, Thursday, sir.

19          End of business, Thursday, sir --

20          MR. LAPSLEY: Yes.

21          THE COURT: -- was the answer.

22          Is that going to be -- give you adequate time to get  
23   out there and -- and confirm, whatever you'd need to confirm, so  
24   that on our telephone conference a week from Friday, we might  
25   have some answer?

1           MR. SAFIAN: Ah, Mr. Lapsley has dealt with Mr.  
2 Flanagan, so we're fine with him providing the inventory  
3 directly to Mr. Flanagan.

4           If we had it Thursday, we could make our best effort  
5 to have it com -- our initial review completed by Monday. Mr.  
6 Flanagan could and another investigator, I think, assuming  
7 they're available, could probably be onsite at Mr. Miller's  
8 Tuesday, provided he gives us access to do what we need, then,  
9 yeah, we should be able to be prepared for a call the following  
10 -- by Friday.

11          THE COURT: Okay. Mr. Lapsley.

12          MR. LAPSLEY: Well, we don't miss this, I mean --

13          (Mr. Lapsley is not speaking at a microphone at 3:30  
14 p.m.)

15          THE COURT: You'd have permission to send it to both  
16 Mr. Safian as well as Mr. Flanagan, as well as Mr. Miller and  
17 Mr. Lafuente, of course and the Assistant United States  
18 Attorney.

19          MR. LAPSLEY: Good, thank you, sir.

20          THE COURT: Absolutely, sir.

21          Mr. Miller, does that answer your question about the  
22 inventory and getting it out?

23          THE DEFENDANT: Yes.

24          THE COURT: And you will fully cooperate with, not  
25 only Mr. Lapsley, but Mr. Flanagan and Mr. Safian, so they can

1 do what they need to do get --

2 THE DEFENDANT: Yes, I would like to.

3 THE COURT: -- that inventory moving?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. All right.

6 I'm going to schedule the telephone conference for a  
7 week from Friday.

8 Mr. Miller, of course, I would expect you to  
9 participate along with Mr. Lafuente and Assistant United States  
10 Attorney Sullivan.

11 Mr. Lapsley and Mr. Flanagan and Mr. Safian, it would  
12 be great to have you available on that phone call. By the time,  
13 we've reached that date, a hundred and five thousand dollars and  
14 sixty-five -- \$105,065.72 should have been dispersed, fifty  
15 thousand to the Court's registry, the \$55,065.72 to FSIS.

16 And it's very important, because so far, there's been  
17 a real issue with those payments being made and it obviously is  
18 a -- a gesture of, your willingness to comply with the orders.  
19 I was very encouraged when I had received this latest document  
20 from you.

21 I'm very encouraged with what I hear today, not that  
22 you'd want to give up, but that you don't want to be in non-  
23 compliance. And I am very encouraged that you want to engage  
24 with Mr. Lafuente again to allow him to assist you in this  
25 regard, because that makes it a lot easier to deal with this

1 Assistant United States Attorney in trying to come up with a  
2 solution. But it's in your best interests, it meets the  
3 interest of -- of the Department of Agriculture.

4 Mr. Miller, do you have any questions for me?

5 THE DEFENDANT: Well, I know, they were wondering  
6 about the three-man board, I mean, actually, the -- as you know,  
7 I'm -- I'm -- I look at nature, because it's not saying, no to  
8 my members.

9 So, I have a -- a three-man board, that I've --  
10 they've volunteered to come on board and if you wanted to make  
11 them testify as to why they're helping me and what they're  
12 concerns are, if you want that evidence -- that evidence that we  
13 work together as a community --

14 THE COURT: Right.

15 THE DEFENDANT: -- so, can Mr. Durmaz come up?

16 THE COURT: Sure, absolutely.

17 Sir, are you going to testify for us?

18 MR. DURMAZ: Yes, sir, I --

19 THE COURT: Oh, absolutely, if you would please  
20 approach the witness stand and just raise your right hand to  
21 swear or affirm. You may just go right around there  
22 (indicating). And if you'd just raise your right hand.

23 BARRY DURMAZ, DEFENSE WITNESS, SWORN.

24 THE WITNESS: Yes.

25 THE COURT: Thank you very much, sir. And sir, please

1 be seated.

2 And sir, would you please state your full name,  
3 spelling your last name for the record?

4 THE WITNESS: My name is Barry Hasson Durmaz, the last  
5 name is D-u-r-m-a-z.

6 THE COURT: Okay.

7 Now, normally, you're asked questions, this might be a  
8 time, where it would be appropriate to allow you to testify in a  
9 narrative form.

10 Mr. Miller, did you want to ask questions of Mr. Du --  
11 It's Durmaz, correct?

12 THE WITNESS: Durmaz, yes, sir.

13 THE COURT: Did you want to ask questions of him and  
14 he'll respond, I assume, Mr. Lafuente, you're not familiar with  
15 this witness, correct?

16 MR. LAFUENTE: Correct.

17 THE COURT: Okay.

18 THE WITNESS: Well, he just doesn't remember but we  
19 have spoken and --

20 THE COURT: No, I mean, he's not -- he's prepared to  
21 ask you questions.

22 THE WITNESS: Correct.

23 THE COURT: Mr. Miller, did you have any questions for  
24 the witness or do you want him to be allowed to just -- to  
25 explain to the Court, what he knows?

1 MR. SULLIVAN: Ah, I'm -- either way --

2 THE COURT: Well --

3 MR. SULLIVAN: -- I mean, he -- whatever he prefers.

4 THE COURT: Which would you prefer, sir?

5 THE WITNESS: I'm sorry, what was the --

6 THE COURT: Just talk in a narrative or have Mr.  
7 Miller ask you questions?

8 THE WITNESS: Well, I'd like to submit that, Amos is  
9 being accused to speculation earlier by his defense attorney,  
10 ah, really, that's what the -- the Federal Meat Inspection Act  
11 and the Poultry Act, it is really speculation out there, because  
12 it's prognosticated what might happen before anything has  
13 happened, before anything has happened.

14 And, ah, it will be interesting to see if there is  
15 going to be a meeting of the minds, ah, after this conference  
16 call, because there is conflicting interests here.

17 True law is that which, your Honor, never changes,  
18 it's always been fundamentally wrong to do a few things, such as  
19 murder, steal, bear false witness, ah, just a few things,  
20 really, ten ultimately -- ten -- ten Commandments, so that  
21 that's how we know true law, it's always been wrong to do these  
22 things, historically.

23 And -- ah -- that's the position I believe, that Amos  
24 is standing in, it's that it's a tight area to navigate, these  
25 compliance laws.



1           And he could comply, you know, that's -- that's  
2 something he could do according to his conscience but then what  
3 is happening by that -- and I believe, this is where he's coming  
4 from -- is that, again, the right to contract or the right to  
5 earn a living is not an absolute right, it is subject to  
6 something else. And that is a regulatory body agency that the  
7 USDA and this particular Act.

8           And so, that would be contrary to the spirit behind  
9 the letter of the law. The spirit of our law, they're in '76,  
10 the declaration of '76, just a few things of life, liberty and  
11 the pursuit of happiness.

12           And so the question, does a man have an absolute right  
13 only until he would injure his neighbor, that's -- that's --  
14 then, he's abused his liberty. But -- ah, true law in this  
15 country is a man or a woman's right to govern themselves and  
16 there is no evidence that's been brought forward, that he has  
17 injured anybody, only a failure to compliance.

18           And I -- and I heard that clearly today and I don't  
19 think there would be argument that that is the case, that it's  
20 an issue of compliance, not just somebody has been wronged or  
21 injured and so, that is speculation and I understand that that  
22 is what we're -- and Amos understands that.

23           He's asked me with a couple of other gentlemen to --  
24 you know, counsel him in the right ideas. And he's coming to an  
25 awareness of that.

1           It is -- it is important to establish true law,  
2   because then, that's the basis for injustices, right. And so,  
3   ah, yes, an issue of compliance is what this is about, but it is  
4   good to have on the record, your Honor, that -- ah -- we are  
5   here as men and the membership of -- of the farm to do good on  
6   the land. It is -- it is the king's land, our -- our answering  
7   the king, the true law here.

8           And to be a judge, it is a noble position, an  
9   honorable position, ah, a very elevated position. And --ah --  
10   since Mr. Miller mentioned the Book of James and the Assistant  
11   United States Attorney did as well in rebuttal in that book, we  
12   have twice, a perfect law of liberty, because I -- until there  
13   is an injured party, ah, we're free to do good as is  
14   overwhelming evidence by the customer base, ah, from Miller's  
15   Organic Farm, overwhelming.

16           I've gone back and reading the records from 2016, it's  
17   -- okay, from all of these -- ah -- and appreciate your  
18   graciousness on behalf of Miller's Organic and customers, ah,  
19   there's -- there's an issue of control and power and -- ah --  
20   the contest is, right makes might. But when we're dealing with  
21   a large federal, ah, administrative agency, the might of that  
22   agency is what makes right, see.

23           Ah, so Amos is under force and threat of force, if he  
24   doesn't comply and that really is a red flag to know, this is  
25   not true law and it isn't -- regulatory law, it is compliance

1 law, but there is a presumption being made here, that we're --  
2 Amos has and Miller's Organic has a relationship with the USDA,  
3 okay, and that's -- that's a presumption that's in modern  
4 lawyering, modern legal -- ah -- training, there is a  
5 presumption that's the law that's being accused of, ah, accused  
6 of breaking --

7 (Static at 3:40 p.m.)

8 THE WITNESS: -- that it applies to Amos Miller,  
9 because true law protects the relationship. He has a  
10 relationship with his customers, with his suppliers and evidence  
11 would need to be brought forward, that there is injury there,  
12 okay, that's what true law does, it protects those  
13 relationships.

14 In contrast with the USDA and the -- the Federal Meat  
15 Act, there can be -- the relationship doesn't matter, it -- it's  
16 not a concern, only comply, okay.

17 So, if Amos is willing to accept the consequence as he  
18 has so stated and maybe, it's gonna be subject to change, he'll  
19 be a man of proven character, if he accepts the heavy hand of  
20 law that -- that forbids the liberty to govern itself, okay.

21 (Static continues.)

22 THE WITNESS: So, it's healthy to make that contract  
23 when we're talking about law -- law -- and did it come from our  
24 -- law giver and his law, as long as he's not there to love his  
25 neighbor, that's what America is about, he's a free man.

1 But if the heavy hand of compliance law is brought  
2 forward, ah, that's -- that's how that law has to be  
3 administered, it is by force and threat of force. Okay, because  
4 again only a few things have been fundamentally wrong, always.

5 And that's -- that's very liberating and he has been  
6 and the customers of Miller's Organic Farm, your Honor, we are  
7 here to do good things on the land and we're in a time when that  
8 good is being evil spoken of, okay.

9 (Static continues at 3:42 p.m.)

10 THE WITNESS: So, that's a good position to be in, to  
11 stand, the conscience knows, ultimately, what is good and what  
12 is evil --

13 THE COURT: I'm going to interrupt you there for a  
14 moment, sir.

15 THE WITNESS: Yes, sir.

16 THE COURT: Mr. Miller has indicated to this Court  
17 through a written writing, that he does not want to be held in  
18 criminal contempt and that he certainly doesn't want to lose his  
19 farm, so much so, that he wanted to appoint three volunteers,  
20 who were going to form a committee to assist him in being  
21 compliant with those regulations, I believe, you are one of  
22 those members, is that correct?

23 (No verbal response and static continues at 3:43 p.m.)

24 THE COURT: Are you one of three?

25 THE WITNESS: Yes, we -- we had a meeting and we --

1 I'm still learning from Amos, what role he may have me play to  
2 assist him and that's --

3 (Static continues.)

4 THE WITNESS: -- slow and incremental, he has a lot of  
5 -- there's a lot of people, who want to help and there's some  
6 times, when I'm with him -- (indiscernible and static  
7 continues.) -- maybe not -- the best of --

8 THE COURT: That's an understatement.

9 THE WITNESS: Okay, yeah.

10 And I -- I wasn't encouraged by the (indiscernible)  
11 either, quite frankly. Okay.

12 But I think, if we can have open communications for  
13 understanding, you see, what -- ah -- understanding, excuse me.

14 True law asks the question, what is the idea behind  
15 the Federal Meat Act, well, I heard it today, your -- your  
16 Honor, and that's food safety. So, if that is the concern, that  
17 could be addressed without question, food safety and -- and  
18 bringing the evidence forward, that there is a violation of food  
19 safety, because I've seen it.

20 (Static continues at 3:43 p.m.)

21 THE WITNESS: Now, compliance-wise, yes but that is  
22 preemptive, that is -- that is regulation, because there is  
23 nothing that's gone wrong, ah, but yes.

24 Amos has graciously asked me to be of service to him,  
25 your Honor and --

1 THE COURT: And do you think, you can assist?

2 THE WITNESS: Well, I -- ah, I'm a student of our --  
3 what's good about our country for twenty-seven years, true law,  
4 your Honor. I am a student of the law and -- ah -- I  
5 understand, that in law school comparative law is not taught,  
6 it's just law, but we're -- we're dealing with Roman civil  
7 administrative law versus law that goes back to our declaration,  
8 the Magna Carta, 1215 and even to the resurrection of the Lord,  
9 Jesus Christ.

10 He is the one that says, if a man doesn't work,  
11 gentlemen, then he should not eat and that man, Amos Miller, is  
12 a hardworking man. His reputation proceeds him all over this  
13 country. I am reading the comments, ah, I'm assisting in other  
14 ways and that does help bolster a man, that his conscience is  
15 not -- he's getting positive affirmation, your Honor.

16 And so -- ah -- answer questions?

17 (Static continues at 3:45 p.m.)

18 THE COURT: Well, you've answered.

19 Mr. Miller, do you have any questions for this --

20 THE DEFENDANT: (No verbal response.)

21 THE COURT: Mr. Lafuente, do you have any questions?

22 MR. LAFUENTE: I have no questions.

23 THE COURT: Assistant United States Attorney Sullivan?

24 MR. SULLIVAN: Yes, just briefly.

25 CROSS-EXAMINATION

1 BY MR. SULLIVAN:

2 Q. Mr. Durmaz, first of all, thank you so much for coming in  
3 and speaking today, you're quite articulate and what you've  
4 shared is very helpful.

5 And by the way, comparative law was part of my law  
6 school, we did learn Roman law, the Napoleonic Code and European  
7 law --

8 A. Okay.

9 Q. -- code law, ah --

10 THE COURT: Natural law.

11 Q -- it was very enlightening.

12 (Laughter and static continue at 3:45 p.m.)

13 Q. And we certainly -- the U.S. Attorney's office, would  
14 welcome your guidance and input and assistance to Mr. Miller and  
15 helping him going forward.

16 And I -- I know, you spoke about the spirit of the  
17 law, which is really important to us, I mean, we often have to  
18 exercise discretion as to whether we'd enforce certain things  
19 we've certainly done that in this case.

20 There are various options that have been available to  
21 us and we've, at least, tried not to exercise all of them and to  
22 use restraint here. And Montesquieu of course in the 18<sup>th</sup>  
23 Century, when our founders were writing the Declaration and --  
24 and they read Montesquieu -- wrote the spirit of the law, so  
25 that's always been, you know and important part of the whole

1 legal scheme.

2 And certainly, in the Declaration after the mention of  
3 life, liberty and the pursuit of happiness follows the language:

4 That to secure these rights, laws and instituted  
5 among me.

6 So, there is the contemplation of law.

7 And here, the Federal Meat Inspection Act and the  
8 Poultry Products Inspection Act, both have public policy  
9 statements in them, so we see the spirit of the law in writing  
10 that Congress has said, this is what should be animated, you  
11 know, inspiring these laws, inspiring the agency going forth and  
12 informing, how that should happen.

13 And here, Mr. Miller, of course, sells to folks  
14 throughout the country. So, the community that's at issue is  
15 the nation, really, because his customers are throughout the  
16 country and their representatives are the ones, who have written  
17 these laws, that -- that the agency is responsible for  
18 enforcing. And these are, generally, applicable laws.

19 So, what the agency has been seeking here, is just to  
20 apply the same laws in the same way they are applying them to  
21 every other farmer, every other meat and poultry products that  
22 are processed throughout the country, whether Amish, other Amish  
23 farmers, whether Horow (ph), whatever, these are, generally,  
24 applicable laws, Mr. Miller is not being singled out, the agency  
25 is not saying, oh, you've violated, therefore, we are applying



1 this differently to you.

2 The agency is saying, we are seeking to do with Mr.  
3 Miller, what we're seeking to do with everyone and what everyone  
4 else is doing, so that there is a level playing field. And it  
5 -- and the agency has been willing to work with Mr. Miller to  
6 find ways to accomplish what he is seeking to accomplish,  
7 whether it be regarding citric acid or whatever, so that he can  
8 be a successful -- ah -- enterprise going forward and that's  
9 been the aim and the goal and the Judge, certainly, and my  
10 office have supported that throughout.

11 But I'd just have -- have a few questions about the  
12 board, are you -- you've said, that Mr. Miller hasn't really  
13 gone through what your functions would be going forward, is that  
14 right?

15 A. There's been --

16 (Static continues at 3:48 p.m.)

17 A. -- (indiscernible) -- and -- ah -- so, that's -- he's good  
18 to mention that there's a lot of pressure, a lot of demands, a  
19 lot of people are looking to him, there is a lot riding on this  
20 with his suppliers, who also it affects their livelihood.

21 So, ah, it's been a recent development to come  
22 together as -- as this, so it's actually, still developing, so I  
23 can't really state too much, only that, you know, we had a  
24 meeting at the farm and -- he's opening up some -- make it a  
25 local, safe -- farm and others, even Mr. Lafuente -- Lafuente --

1 (Indiscernible and static continues at 3:49 p.m.)

2 A. -- and we got the -- and -- but I think, there's something  
3 that we have -- by having local support, a local presence,  
4 because quite frankly, the -- you know, the USDA is not local  
5 and they have -- they did start -- it's a top down organization  
6 and so, there's conflict here with the bottom up organization of  
7 a man's family and his family business and then -- then the  
8 people that are freely associating with him. Okay.

9 So -- ah, if I could, Mr. Sullivan, about the accepted  
10 public policy in the agencies, ah, you know, what is your  
11 understanding of when -- when authority is delegated, which the  
12 people gave through the Constitution, is there any provision  
13 there, that they can sub-delegate now with agencies that can be  
14 to the detriment to the people -- to the authority --

15 THE COURT: We can't -- we can't get into philosophy  
16 here, where --

17 THE WITNESS: Okay.

18 THE COURT: -- you two have a discussion about the  
19 philosophy, I'm sure the Assistant United States Attorney  
20 Sullivan would enjoy it and I know, you would enjoy it.

21 THE WITNESS: Okay.

22 THE COURT: What I want to ask you is, Mr. Miller  
23 submitted a notice of -- it appears that he's referring to his  
24 own error, in that, he became very defiant and he was concerned,  
25 it was leading him on a path that was going to destroy the farm

1 and maybe, it would destroy him personally, hurt his family,  
2 hurt his community and hurt his customers.

3 And in this document, this notice of error, which is  
4 Document No. 156, he wrote that:

5 He has formed an independent three-member board of  
6 governors to oversee the operations of the farm, including  
7 sales and shipment and Mr. Miller's decisions on all sales.

8 And what he was talking about there is just what he  
9 talked about here, that he was torn between his conscience and  
10 his customers in complying with the law and he wanted someone to  
11 be in between those to help him when his conscience was such  
12 that he was going to violate the law and potentially, destroy  
13 his farm, *et cetera*.

14 So, that this board would oversee decisions and all  
15 sales to make sure, he remained in compliance to assure the  
16 Court that the order -- and those are my prior orders that have  
17 been entered -- that the order would be strictly followed.  
18 These new board members are volunteers with integrity, that are  
19 concerned that Miller's Organic Farm not be closed.

20 Are you ready to take on that role as one of these  
21 three board -- three-member board that was formed by Mr. Miller  
22 to be a board of governors to assist him in both meeting the  
23 needs of his customers while at the same time, becoming and  
24 remaining compliant with any regulations?

25 THE WITNESS: Actually, your Honor, there is a good

1 portion of that, I'm already doing. I have --

2 THE COURT: Good.

3 THE WITNESS: -- so, ah -- the current price list,  
4 which is the -- we're in the month of April, ah, I am  
5 responsible for working with Amos' brother, John, that the only  
6 meat products that are available for sale is the water buffalo,  
7 which is not part of the sanctions that are put on here, they're  
8 under the --

9 (Static continues at 3:52 p.m.)

10 THE COURT: Where does the water buffalo come from --  
11 where does water buffalo come from?

12 THE WITNESS: (No verbal response.)

13 THE COURT: You actually raise water buffalos?

14 THE DEFENDANT: We do.

15 THE COURT: Wow, okay.

16 Where are -- where are they native to?

17 THE DEFENDANT: What's that?

18 THE COURT: Where are they native to, where do you  
19 find them in nature?

20 THE DEFENDANT: (No verbal response.)

21 THE COURT: They're not -- they're not native to  
22 America, are they?

23 THE DEFENDANT: Ah, they're more down south in -- in  
24 the warmer climates.

25 THE COURT: Okay, all right.

1           That just seemed like an unusual --

2           THE DEFENDANT:   I --

3           THE COURT:   -- an unusual --

4           THE DEFENDANT:   -- I -- Italy --

5           THE COURT:   -- food.

6           THE DEFENDANT:   -- Italy raises them, like, ah --  
7   like, we do beef over here.

8           I mean, I -- I asked Paul, what -- when is beef going  
9   to be there, they have chuck.

10          THE COURT:   Okay.

11          THE WITNESS:   Yes, just to affirm, your Honor.

12          Yes, I am more than delighted to assist Amos and --  
13   so, you know, it's relatively new, but yes, the thing -- see,  
14   one of the things I'm learning about Amos is, you know, part of  
15   his culture, the Amish community -- first of all, for him to put  
16   that kind of thing in writing, that's saying something, because  
17   as I've come alongside to do some -- help with the business  
18   development, ah, I've put some things to him that I'd like him  
19   to fill out.

20          Well, he's just a simple farmer and that's what he's  
21   telling me, you know, it's just -- so, I can understand the  
22   pressure -- excuse me.

23          (Static continues at 3:53 p.m.)

24          THE WITNESS:   You know, to be precise, there have been  
25   some things committed to and haven't been fully realized to the

1 Court's satisfaction -- to your satisfaction, but I do want to  
2 help him and I'm appreciating this opportunity.

3 This is an opportunity to get on the record, the  
4 really true law. And quite frankly, the spirit of the law, is  
5 not the written regulations, it is something much more  
6 fundamental than that. And without that spirit of the law, we  
7 do have death, we have economic death rationale.

8 And -- and what Amos was testifying earlier, you know,  
9 the bigger picture is, what's going on in our country, the  
10 manipulations, that -- that's a key word, too. The  
11 manipulations that you can be in business or you can -- you  
12 know, the food supply out there, your Honor, a lot of things are  
13 being manipulated, ah, our money supply.

14 Your Honor, I have record and evidence that the courts  
15 of this land are to be -- ah -- that the courts -- the  
16 proceedings of courts are to be -- according to -- ah, when  
17 we're talking about the -- the fines and the payments and the  
18 dollars, ah, what is a dollar, okay.

19 And George Washington signed the U.S. Mint Act of  
20 1789, I believe, it is, that are our currency, our -- a dollar  
21 is 371 and quarter grams of silver, okay.

22 Now, our -- our current American liberties, they're  
23 actually, more than that, they're about four hundred and some  
24 grams, which is fine, that's more than.

25 But we've got a fundamental problem here, just

1 administratively, with our currency and financing everything  
2 with debt notes, so this case, you know, can you bring -- can  
3 bring in some things, some other things to light, but we've got  
4 some serious problems here, your Honor.

5 And again, I'm thankful for this opportunity that Amos  
6 would like for me to, you know, say a few words, ah, I think,  
7 good can come out of this, I know good can come out of this.

8 Now, whether he wants to comply, that remains to be  
9 seen, but I believe he is gonna stand in true law -- true law.  
10 We have conflicts of law and philosophy, to your point.

11 And -- ah -- the true American is not someone, who  
12 does comply with everything, it is somebody, who is self-  
13 governed, it's somebody, who is more self-governed, than  
14 governed externally. And so, that's why there has to be a  
15 bloody plaintiff, there has to be an injured party, that is our  
16 common-law heritage. The Roman civil law doesn't require an  
17 injury party, which is what we have here, all right. So, that's  
18 the comparative law that I'm -- ah -- referring to.

19 And so, as long as we know this -- we know this, then  
20 we don't have to get bent out of shape and overly emotional,  
21 we'd just stand on principled law, that never changes.

22 And this country is, based -- we're just not clear on  
23 what America is and that is, we are a self-governed nation, but  
24 -- ah -- we've not been that way for several generations.

25 I am even studying the history of the USDA, the

1 gentleman that got that started with the -- the farmlands that  
2 were desolate and -- ah -- they didn't revamp practices on -- on  
3 their farming and whatnot.

4 If somebody wants to voluntarily, avail themselves to  
5 those services, I think, okay. And then, within the  
6 administration to regulate yourselves, okay. But now, ah, to  
7 bring that to the --

8 (Sneezing at 3:57 p.m.)

9 THE WITNESS: -- private business owner and operator  
10 for force and threat of force, that is no American. It's --  
11 it's -- so by the letter of the law, one can be -- ah -- so,  
12 yeah -- economic death and whatnot.

13 And so, but the spirit gives life and I would -- I  
14 would -- I would take as much time as necessary to demonstrate  
15 that the -- the Meat Act and all of that, that's not the spirit,  
16 that's actually, the letter of the law.

17 So, if there's going to be a debate about that, ah --

18 (Coughing continues at 3:58 p.m.)

19 THE WITNESS: -- that's done.

20 THE COURT: But I have to caution you there --

21 THE WITNESS: Yeah.

22 THE COURT: -- but you are going to assist Mr. Miller  
23 in complying with the law as it is now written. Well, there's  
24 natural law, you called it true law, *et cetera* with the -- what  
25 he's calling upon for you and you can have the philosophy that



1   you're -- you believe, self-governing, just to self-govern your  
2   family, self-govern your community, *et cetera*.

3               But at the end of the day, what he's calling upon you  
4   to do, as I understand it from his writing, is notwithstanding  
5   that philosophy, he is in jeopardy right now, he is in --  
6   arguably, in contempt and there are potential contempt  
7   consequences.

8               He recognizes, he got in -- I believe -- he got in  
9   with that Prairie Star, it led him to be in an even much worse  
10   way as this -- as this case is concerned. And with potential  
11   ramifications that could be very harmful to him, his family, his  
12   farm, his customers, *et cetera*. He now recognizes it, he may  
13   not agree with the regulation, but he wants to be in compliance  
14   with the regulation. To the extent he can continue to operate  
15   and be in compliance.

16              If he can't, my understanding today, was he was just  
17   going to shut down those areas that he can't come into  
18   compliance with the regulation, nobody is asking him to do that.

19              And your job is to help him, when he has questions  
20   about doing something that his conscience says, I want to take  
21   care of my customers, but it's going to violate the law, you are  
22   to stop him from doing that. You have to say, no, we have to  
23   stay in compliance with the regulations, that's how I read what  
24   he's submitted here.

25              That's my request for you, can you do that, because

1 he's suggesting, this is the -- this is one piece of evidence  
2 that he wants to be in compliance, but he does not want to run a  
3 afoul of the law, even though he may not agree with the law.

4 As he said, he wants to be a farmer, he wants to be  
5 left alone, he probably doesn't want to pay taxes, most of the  
6 other people in this courtroom don't want to pay taxes, either.

7 And if you'd look back to the Constitution, income  
8 taxes were supposed to be outlawed, nobody wants to pay taxes,  
9 we all know we have to until the law is changed and the laws  
10 change through our elected representatives, *et cetera*, that's  
11 our government's structure, we follow and so we have to follow  
12 those rules and regulations, that -- to the extent they are  
13 unconstitutional -- they're going to be challenged in the  
14 Supreme Court and the Supreme Court has got to say, they're  
15 unconstitutional. And if that doesn't work, you've got to take  
16 it public -- a political solution. That is elect  
17 representatives to go into the Legislature and to change the  
18 law.

19 But we're not talking about changing the law here,  
20 we're talking about Mr. Miller being compliant, so he never has  
21 to see me again, so that I'm just part of his history, not part  
22 of his future, because there is nothing good about me being part  
23 of his future, there is just nothing good about it. He doesn't  
24 want a legal case, he doesn't want this hanging over his head,  
25 he doesn't want to pay attorney's fees, he doesn't want to have

1 to pay inspection fees, *et cetera*. He wants it all to go in  
2 towards a productive business.

3 So, that's where he's bringing your conscience, your  
4 integrity, *et cetera*, back to a person, who has a like mind, as  
5 far as the role of Government, the role of the individual --  
6 individual accountability -- *et cetera*. He's of like mind, I  
7 believe with you, which means he is comfortable with you and the  
8 advice you might give him, but that advise -- the advise he's  
9 seeking is advice that would keep him in compliance, that's what  
10 this says. And I'm assuming that's what he's looking for from  
11 you, somebody he trusts, somebody of like mind, who  
12 nevertheless, will help him in exercising his conscience to not  
13 run afoul of the regulations.

14 THE WITNESS: If that's what Amos Miller wants, then I  
15 would like to have him, you know, I'd like to have -- be more  
16 clear about that, okay. And see -- you know, what -- you know,  
17 that's, we're -- revealing to me, ah --

18 THE COURT: And I'm going to give you a copy of this  
19 to take with you and read it at your leisure.

20 THE WITNESS: Yes, sir. Thank you, your Honor.

21 THE COURT: And then, you can talk with Mr. Miller  
22 about it, but you will see in that document, it is Mr. Miller  
23 saying, I'm tired of this, I don't want further court cases, I  
24 want to become compliant or if I can't -- today, he said, to  
25 shut down.

1 THE WITNESS: Yes.

2 THE COURT: Nobody is asking him to shut down, except  
3 to the extent he's got to be compliant as long as he is  
4 operating.

5 So, you play -- I think, I'm correct in saying -- you  
6 play an important role in helping him as he --

7 (Static at 4:02 p.m.)

8 THE COURT: -- in this courtroom today -- he can make  
9 this right. Okay.

10 Mr. Flanagan didn't think it would be that hard to  
11 become compliant -- maybe, it is hard, I don't know, it has been  
12 for the last several years, but we've given him as much rope as  
13 we can give him, but there is a time when that will end and I  
14 must take appropriate action to ensure that the regulations are  
15 being followed.

16 But we've done everything we can up to this point to  
17 make sure, he's able to serve his customers, the last few months  
18 have been very bad, because he got under the influence of --

19 THE WITNESS: Hm-hmm.

20 THE COURT: -- people that were just a bad influence  
21 and that's what I'm about, that's Prairie Star.

22 THE WITNESS: Yes, your Honor, if I could ask --

23 THE COURT: So, I want you to talk to him about that,  
24 as you read that --

25 THE WITNESS: Yes, sir.

1           THE COURT:  -- talk to him about it to make sure, I'm  
2 not wrong --

3           THE WITNESS:  Hm-hmm.

4           THE COURT:  -- and what your role is with -- with  
5 respect to that.

6           THE WITNESS:  Yes.

7           And I will appreciate that and we will do that, I  
8 trust.

9           Is it unreasonable to get anything that substantiates  
10 what compliance looks like in the way of hours that's required  
11 on the business, itself and -- and related -- that's where I  
12 believe Amos is coming from and he is listening to others, who  
13 have privately complained -- it's in the Lancaster -- the farmer  
14 magazine, ah, newspaper, that you know, there's grant money, ah,  
15 fifty or a hundred thousand dollars to get a meat-processing  
16 plant going.  But there seems to be some -- very unattractive,  
17 ah, things about that.

18           And that would be helpful to going in with full  
19 disclosure, like, really, what does compliance mean besides the  
20 application and getting the license, really, what does it look  
21 like?  I know, I would appreciate that and I think that would be  
22 helpful --

23           THE COURT:  The -- the reason I smile is, I know,  
24 you're just getting involved with this, but for years --

25           THE WITNESS:  Yes.

1 THE COURT: -- Mr. Flanagan and Mr. Safian, the U.S.  
2 -- the Pennsylvania -- have been trying to explain what  
3 compliance is, literally, for years.

4 THE WITNESS: Okay.

5 THE COURT: But I am sure, they will continue to try  
6 to make sure, he understands what is necessary --

7 THE WITNESS: Hm-hmm.

8 THE COURT: -- to be in compliance and we've got Mr.  
9 Lapsley assisting as well.

10 So, I'm quite certain --

11 (Static at 4:04 p.m.)

12 THE COURT: -- I can't tell you as I sit here today.

13 THE WITNESS: Yes, sir.

14 THE COURT: But you're right, you need to know what  
15 you're dealing with --

16 THE WITNESS: Yes.

17 THE COURT: -- what do you mean by compliance, but I  
18 am sure, you can get that information --

19 THE WITNESS: All right. I'll pursue that, your  
20 Honor. Thank you.

21 THE COURT: -- all right.

22 If there are no other questions for the witness, I  
23 will allow Mr. -- it's Durmaz, correct?

24 THE WITNESS: Durmaz. It's Turkish, so I -- that's  
25 all right, it's a little --

1 THE COURT: -- Mr. Durmaz to step down.

2 And Mr. Miller, did you have any other questions for  
3 Mr. Durmaz?

4 THE DEFENDANT: (No verbal response at 4:05 p.m.)

5 THE COURT: You are welcome to step down, sir and you  
6 can join Mr. Miller.

7 (Witness excused.)

8 THE COURT: I'll get that order out. I will get  
9 everyone on the phone, a week from Friday, hopefully, by then,  
10 the money will be -- have properly been deposited in the two  
11 locations.

12 Counsel will have been able to talk with each other.  
13 Mr. Miller will have be able to coordinate with Mr. Lafuente, so  
14 he can coordinate with Assistant United States Attorney  
15 Sullivan.

16 Mr. Durmaz can get an idea of what his  
17 responsibilities are to assist Mr. Miller as it comes to the  
18 actual operation of the business along with the two other  
19 members of that board.

20 Assistant United States Attorney Sullivan, anything  
21 further?

22 MR. SULLIVAN: Just if your Honor could emphasize to  
23 Mr. Miller, that there -- under the current orders, there is to  
24 be no selling of amenable meat or poultry products until further  
25 order of the Court to the contrary. And that there is not to be

1 any additions to the amenable meat and poultry inventory.

2 THE COURT: And you understand that, Mr. Miller?

3 THE DEFENDANT: (No audible verbal response.)

4 THE COURT: That's a yes.

5 And Mr. Lafuente, do you have anything further?

6 MR. LAFUENTE: Nothing further, your Honor.

7 THE COURT: Mr. Miller, anything further, sir?

8 THE DEFENDANT: (No verbal response.)

9 THE COURT: All right.

10 This matter is adjourned, everyone have a good  
11 afternoon.

12 DEPUTY CLERK: All rise.

13 (Adjourned in this matter at 4:06 p.m.)

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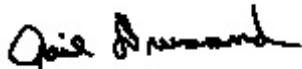
24



<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
GEORGE DAVID LAPSLEY				
By Sullivan	11			
By Mr. Lafuente		35		
By Mr. Sullivan			39	-
PAUL J. FLANAGAN				
By Mr. Sullivan	41			
By Mr. Lafuente		54		
By Mr. Sullivan			56	
By Mr. Lafuente				61
BARRY DURMAZ				
Narrative	112	-	-	-
		* * *		

C E R T I F I C A T E

I, a court-appointed transcriber, certify  
that the foregoing is a correct transcript from the  
electronic-sound recording of the proceeding in the above-  
entitled matter.



Gail Drummond  
28 8th Avenue  
Haddon Heights, New Jersey 08035  
(856) 546-6270

Date: April 24, 2022